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*Report to the Colorado General Assembly:*

**RECOMMENDATIONS FOR 1988**

**LONG-TERM HEALTH CARE NEEDS**



**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 315  
December, 1987**

LEGISLATIVE COUNCIL  
OF THE  
COLORADO GENERAL ASSEMBLY

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Rep. Ruth Wright

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The fourteen-member Legislative Council serves as the fact-finding and information-collecting agency of the General Assembly. The Speaker of the House and the Majority Leader of the Senate serve ex officio with twelve appointed legislators -- six senators and six representatives.

Between sessions, the interim legislative committees concentrate on specific study assignments approved by resolution of the General Assembly or directed by the council. Committee documents, data, and reports are prepared with the aid of the council's professional staff.

During sessions, the council staff provides support services to the various committees of reference and furnishes individual legislators with facts, figures, arguments, and alternatives.

COLORADO LEGISLATIVE COUNCIL  
RECOMMENDATIONS FOR 1988

COMMITTEE ON LONG-TERM HEALTH CARE NEEDS

Legislative Council  
Report to the  
Colorado General Assembly

Research Publication No. 315  
December, 1987

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Rep. Ruth Wright

To Members of the Fifty-sixth Colorado General Assembly:

Submitted herewith is the final report of the Committee on Long-Term Health Care Needs. The committee was appointed by the Legislative Council pursuant to House Joint Resolution No. 1032, 1987 session.

At its meeting on November 18, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Committee on Long Term Health Care Needs to the Fifty-sixth General Assembly was approved.

Respectfully submitted,

/s/ Senator Ted Strickland  
Chairman, Colorado Legislative  
Council

TS/pn

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\* Resigned from the House of Representatives and sworn in as a Senator on November 10, 1987.

## SUMMARY OF RECOMMENDATIONS

The Committee on Long-Term Health Care Needs was directed by the Legislative Council, pursuant to House Joint Resolution 1032, 1987 session, to conduct a study in cooperation with the Department of Social Services to examine the long-term health care needs of the elderly citizens of Colorado. The study charge was to include the examination of various strategies for the delivery and financing of long-term health care, including but not limited to the following:

- (a) an examination of changes in the structure of the elderly population resulting from a decline in the mortality rate;
- (b) a review of funding for home health care and the provision of follow-up nursing home care;
- (c) an evaluation of standards and regulations for skilled and intermediate nursing care facilities with emphasis on the development of specialized services and care units for persons with Alzheimer's Disease and other related dementias;
- (d) consideration of requesting the President and the Congress to allow a federal income tax deduction for the total premiums paid by a taxpayer for long-term care insurance; and
- (e) an examination of the state's long-term care financing priorities, including study of the current Medicaid reimbursement strategy.

### Committee Meetings and Testimony

In an effort to meet the study requirements, the committee held eight full-day meetings, received testimony from over 60 witnesses representing over 40 organizations or interests, and consulted with nationally recognized experts in the long-term health care field. The first five meetings were devoted to testimony concerning long-term health care needs, demographics, special populations, delivery of services, financing, and other states' systems and activity in the area. One-half day was spent in small groups touring various representative long-term health care facilities. Some committee members and staff also participated in internships with physicians working in the long-term health care area. Recommendations for changes and solutions to problems were presented.

Initially, there were 35 recommendations for legislation. The last three meetings were used to examine the proposals for legislation. After testimony and committee discussion on the proposals, the committee referred about half of the proposals to the Legislative Council staff for additional research; other recommendations were either drafted into proposed bills, or not acted upon. Specific testimony was then taken on the remaining proposals and research was reviewed. In the last meetings, the committee reduced the number of recommended proposals to 19 bills and two resolutions. These bills and resolutions are summarized in this report under the following headings.

- A. Long-Term Health Care System Development
- B. Quality Care
- C. Financing Long-Term Health Care
- D. Alzheimer's Disease and Special Populations
- E. Legal Issues Affecting Long-Term Health Care Delivery

## A. Long-Term Health Care System Development

### Concerning the Creation of a Task Force on Long-Term Health Care -- Bill 1

Bill 1 establishes a task force to study policies and programs for long-term health care in Colorado. The study charge includes the development of a unified statewide long-term health care plan and budget and implementation of administrative and management procedures designed to build a cost-effective and coordinated long-term health care system. Colorado currently has services for long-term health care in three executive departments and many programs are not coordinated. The need for coordination in future planning and current activities is great and could possibly reduce departmental administrative costs.

The bill sets the membership of the task force at 25, including six legislators; six representatives of hospitals, nursing homes, home and community based caregivers, dietitians, and physicians; six individuals representing special needs of long-term health care patients including stroke, Alzheimer's Disease, chronically mentally ill, disabled infants, AIDS, and spinal cord and head injuries; two persons from elderly advocate organizations; one representative of each of the Departments of Social Services, Health, and Institutions; a representative of the University of Colorado Health Sciences Center; and the state nursing home ombudsman. One of the legislators is to be appointed chairman. The bill authorizes the task force to accept grants or donations to pay for the necessary research and support staff.

### Concerning the Implementation of a Continuum of Care for Elderly and Disabled Persons Who Require Long-Term Care, and Making An Appropriation in Connection Therewith -- Bill 2

Services for categorically needy. Bill 2 authorizes the implementation of the services listed below for the categorically needy under the state Medicaid law, if the director of the Department of Social Services determines that the services are cost-effective. The committee was convinced by the testimony that offering these services at home would be more cost-effective than providing these services in hospitals. Those services authorized in the bill are:

- private duty nursing;
- ventilator services;
- hospice benefit services;
- case management services; and
- personal care.

If the personal care option is implemented, the bill enables the Department of Social Services to provide Medicaid personal care services to persons who are receiving or are eligible to receive a home care allowance. The Medicaid personal care option may only be extended to those individuals if it is determined to be cost-effective, as compared with other options, by the executive director of the Department of Social Services.

Client needs assessment. The bill also requires that the Department of Social Services develop a client needs assessment program. The client needs assessment provision requires that nursing homes refer all new applicants to a voluntary pre-admission needs assessment review of the client's care needs and payment options and means. The voluntary review would inform the client of their health care needs and appropriate alternatives to nursing home care, should the client not require that skilled of a level of care. The department would be able to assess a fee for the pre-admission needs assessment.

If a nursing home does not refer an applicant for the pre-admission review, and the client is admitted to the nursing home and subsequently qualifies for state assistance, the department may deny payment to the home for up to six months. However, the nursing home is not allowed to deny appropriate care or seek to recover from the patient, his family, or his estate the costs for that care in these instances.

Long-term health care access. The bill also establishes a pilot project on long-term health care access. The pilot project will consider the coordination of care services at the community level and how accessible they are to all the persons in need of long-term health care. This pilot project will assist the department in assessing the availability of services and health care options in Colorado.

Appropriation. An amount of \$809,871 and 1.25 FTE is requested for the Department of Social Services for the implementation of private duty nursing services and services to the ventilator dependent. Under the bill, the sum of \$24,739 and 2 FTE is allocated to the department for the implementation of personal care services; \$20,840 and 2 FTE is appropriated for the pre-admission needs assessment review portion of the bill.

Concerning the Study of Case Management Services, and Providing for a Legislative-Interagency Task Force on Case Management and Pilot Project for an Independent Case Management System, and Making an Appropriation Therewith -- Bill 3

This bill creates a second task force to work with state agencies and with advocates of an independent case management system to study the delivery, administration, and financing implications of

independent case management services for all disabled persons. This task force has the specific charge to study independent case management. The task force would also study the feasibility and cost-effectiveness of an independent case management system for clients who currently receive services from the Division of Mental Health of the Department of Institutions. The concept of case management was reported to be a cost-effective way to provide a single point of entry to assess clients' needs, determine their strengths and weaknesses, and then provide a coordinated plan for services with information provided from the client, family members, and an inter-disciplinary team of advisors. The case manager is to monitor the services delivered.

The Department of Institutions is required to administer a pilot case management project for chronically mentally ill persons and disturbed youth located in a rural area of the state. The pilot project will institute a system of case managers independent from any state program or state agency. The issue of case management for the chronically mentally ill was brought to the committee by persons and organizations concerned about the manner in which the chronically mentally ill have been served since deinstitutionalization. Testimony indicated that the mentally ill have not been adequately served through the community mental health centers. An independent case management system might better ensure that the specific needs of these clients are met through the system.

The bill appropriates \$36,000 to the Department of Institutions for implementation of the pilot project and the study of case management. The department is authorized to seek grants or other private sources to help pay for the pilot project.

#### B. Quality Care

##### Concerning Persons Employed as Nurses' Aides By Certain Skilled and Intermediate Nursing Facilities -- Bill 4

The bill establishes minimum training requirements (80 hours or whatever minimum is established by the federal government) for nurses' aides in skilled or intermediate nursing facilities. It also contains a grandfather clause exempting current nurses' aides and prohibits contract service nurses' aide employees from working without certification. The State Board for Community Colleges and Occupational Education is designated as the certificating agency and the agency to approve the instructional program. The required instruction, however, may be provided by public or private schools, health care facilities, or other entities.

Certain protections for potential nurses' aides are included in the bill:

- a prohibition against salary reductions to pay for necessary course work;
- a prohibition against requiring a nurses' aide to attend training during non-work time;
- when written language is a barrier, training examinations are required to be conducted orally; and
- there is a six-month time period during which certification must occur.

The majority of all contact with long-term health care patients occurs with the nurses' aide and the turnover of nurses' aides is high. For these reasons, the need to educate the aides about their work and provide some minimum training level was identified as a need in the area of long-term health care. This bill attempts to provide training requirements without placing undue burden on the nurses' aides or the facility.

Concerning an Extension of the Hours During Which the Department of Health May Inspect Health Care Facilities -- Bill 5

The Department of Health would be allowed to conduct inspections of health care facilities seven days a week and 24 hours a day under this bill. By eliminating time restraints, the department would be better able to perform thorough and unannounced inspections. Thus, the extended hours of inspection will enhance the department's ability to evaluate and maintain the quality of care in nursing facilities.

Concerning the Establishment of a Quality Care Incentive Allowance for Long-Term Health Care Providers, and Making An Appropriation Therefor -- Bill 6

Bill 6 establishes incentives to reward long-term health care providers that furnish a high level of care and to provide the public with information about the quality of care available at long-term health care facilities. A committee is created to develop a three-star rating system of nursing care facilities that receive Medicaid funding. To avoid the need for additional review of the nursing care facilities, the recertification system used to certify care facilities for Medicaid funding will also be used for determining incentives, but only categories dealing with direct patient care are considered. The General Assembly is to make an undetermined appropriation to the "quality care incentive allowance fund."

Concerning Incentive Payments to Nursing Facilities Which Successfully Discharge Medicaid Patients, and Making an Appropriation in Connection Therewith -- Bill 7

Under Bill 7, the Department of Social Services is directed to establish a one-year pilot program to provide incentives to nursing facilities that successfully discharge Medicaid patients. The bill provides 15 days of reimbursement, based on a reasonable cost per day of nursing care, be paid to a facility that rehabilitates and discharges a Medicaid patient. To receive the funds, the patient may not be readmitted to a nursing facility or a higher level of care for a related disorder for at least 60 days. The program is intended to reduce the amount of money the state pays for the Medicaid program by lowering the number of Medicaid patients or possibly reducing the level of care necessary for that patient. Improved rehabilitation services in long-term health care facilities is another expected result. The bill appropriates \$10,000 for the implementation of the pilot program.

Concerning Methods to Encourage the Development of Child Care Centers in Nursing Homes -- Bill 8

The purpose of Bill 8 is to encourage the development of child care centers in nursing homes and to promote the concept of intergenerational contact between children and the elderly. By lessening the administrative burden of complying with licensure rules and regulations for child care centers and nursing homes, as well as providing some "start up" funds for nursing homes, the committee believed that intergenerational programs would be promoted. Child/elder programs have been proven effective in enhancing the experience of the elderly in nursing homes and providing children with valuable contact with elderly persons. Research shows that child/elder programs have a positive effect on the responsiveness and social behavior of the elderly.

Bill 8 has two distinct components. The first part establishes a matching grant program to provide seed funds for nursing homes interested in starting child care centers. The bill specifies that the funds will be distributed on a first come, first served basis to nursing homes approved by the Department of Health and which have obtained matching funds. The second part of the bill requires that the Departments of Health and Social Services work together with the nursing home industry, child care operators, and experts on intergeneration programs of this type. They are directed to study existing statutes and regulations and to report to the General Assembly concerning statutory changes to allow for a waiver of nursing home licensure regulations and a separate licensure program for the operation of a child care center in a nursing home facility. There is an appropriation of \$100,000 to the Department of Health for the grant program and implementation of the act.



Concerning the Inspection of X-ray Producing Machines, and Making An Appropriation in Connection Therewith -- Bill 9

A more consistent program of annual inspections of X-ray machines by qualified, independent inspectors approved by the Department of Health is authorized in Bill 9. The bill is intended to lessen the department's current burden to inspect machines throughout the state, lessen amount of time it takes to inspect machines, and reduce the department's costs associated with state travel for the inspection of X-ray machines.

The State Board of Health is required to adopt rules and regulations establishing minimum specifications for all X-ray machines, set qualifications of persons authorized to inspect the machines, and establish procedures for an annual inspection of all types of X-ray machines. The annual inspection will be a uniform requirement; currently, machines in hospitals and some other locations are inspected more frequently than other machines.

The bill declares that the inspection of X-ray machines is an issue of statewide concern. By setting statewide standards, the bill disallows other governmental entities from establishing other standards.

A misdemeanor is recommended for knowingly using any machine not certified and disciplinary action is to be taken against any qualified inspector who incorrectly certifies an X-ray machine as meeting the set standards.

The bill also changes the name of the Radioactive Materials Control Fund is changed to the Radiation Control Fund. A fee is authorized for the approval of persons to be inspectors and for a certification or a non-certification sticker to be affixed to the machine after inspection. An undetermined appropriation is made to the department for implementation of the act.

Concerning the Repeal of Provisions Which Prohibit the Direct Access of the Public For Physical Therapists -- Bill 10

Bill 10 allows the public to have direct access to a physical therapist by repealing the statute which prohibits a physical therapist from treating a patient without first obtaining a prescription or referral of a physician, dentist, or podiatrist.

### C. Financing Long-Term Health Care

#### Concerning Eligibility of Married Persons for Medical Assistance -- Bill 11

The committee determined that the problem of spousal impoverishment due to the costs of one spouse's medical care is widespread, and is a problem that needs to be addressed.

This bill provides that only the applicant's share of a married couple's total non-exempt resources and income may be considered in determining eligibility for nursing home care under the medical assistance act (Medicaid). A presumption is established that the applicant has one-half share in the couple's resources. Standards are set for an applicant or spouse to rebut this presumption. The Department of Social Services is given an enforceable right against certain spouses or recipients for the cost of medical assistance furnished to the recipient spouse.

#### Joint Resolution 1 and Joint Resolution 2

Prior to the enactment of House Bill 1331 (the flat tax bill), 1987 session, amounts received from interest earned on Individual Medical Accounts (IMAs) were deductible from taxpayers' federal adjusted gross income when calculating state income tax. Long-term health care insurance premiums were also deductible prior to passage of House Bill 1331. The committee debated the issue of reintroducing state tax deductions for these two long-term health care savings incentives, but determined not to recommend state tax deductions due to the recent passage of the flat tax bill. Instead, the following two resolutions are recommended.

Joint Resolution 1. As an incentive to encourage individuals to plan for their future and to pay for their own health care needs, Joint Resolution 1 urges the United States Congress to enact legislation providing a federal income tax deduction for money deposited into an Individual Medical Account.

Joint Resolution 2. Joint Resolution 2 urges that the United States Congress enact legislation to provide a federal income tax deduction for individuals for long-term health care insurance premiums. The resolution recommends that long-term health care insurance premiums be included as a medical expense for federal income tax purposes, and that the current 7.5 percent federal threshold for medical expense deductions from adjusted gross income be lowered. The federal income tax deduction would be an incentive for individuals to purchase long-term health care insurance in order to pay for their own health care needs and to possibly reduce future government costs for nursing home or other long-term health care.

#### D. Alzheimer's Disease and Special Populations

##### Concerning Disabled Adults in Need of Protective Services, and Providing for the Discovery, Investigation, and Treatment Thereof, and Making An Appropriation Therewith -- Bill 12

The availability of protective services that are currently offered to elderly and children is expanded under Bill 12 to include disabled adults between the ages of 18 and 65 years old. Disabled adults are vulnerable to abuse and need protection services from county social service departments. The bill limits the protective services to those services constituting the least restrictive intervention necessary to remedy the situation. It urges persons having reasonable knowledge to believe that a disabled adult is in need of protective services to inform the county department of social services. The county is to assess the need in each reported case; to prepare to plan for protective services; to take action to supply the protection; and to notify licensing authorities of any hospital or care facility of all instances of abuse of a disabled adult occurring at such facility.

There is an undetermined appropriation to the Department of Social Services for implementation of the act.

##### Concerning the Development of a Specialized Training Program on Dementing Illnesses Including Alzheimer's Disease, and Making an Appropriation in Connection Therewith -- Bill 13

The Department of Social Services is directed under Bill 13 to contract with a provider knowledgeable in the diagnosis, treatment, and care of persons with Alzheimer's and other related illnesses to provide: 1) training to designated personnel; 2) basic information and guidance to families; and 3) training to families enabling them to serve as caregivers, when appropriate. The Department of Social Services is to take applications for training from public and private agencies, with an emphasis on training personnel located in the rural areas of the state.

Because of the nature of Alzheimer's Disease and other dementing illnesses, specialized patient care and knowledge of the disease is important for the caregiver. To implement this act, \$12,000 is appropriated to the Department of Social Services.

Concerning the Establishment of an Alzheimer's Disease Respite Care Pilot Program, and Making an Appropriation in Connection Therewith -- Bill 14

Because of the immense stress on the family and other Alzheimer's Disease caregivers, the need for accessible and affordable respite care relief was identified as a priority by the committee. Respite care may extend the length of time that an Alzheimer's patient is able to remain in the home because of the relief it provides to the primary caregiver. The respite relief may enable the caregiver to continue caring for their loved one.

Bill 14 directs the Department of Social Services to establish a pilot program to provide respite care for persons afflicted by Alzheimer's Disease. Projects would be developed to encourage different models of respite care appropriate for metropolitan, suburban, and rural settings. The program would also provide an evaluation component to include:

- the determination of aspects of successful respite care (case management, time away from home, and informal support) that enables the family to act as a care provider;
- the identification of what services are appropriate during the different stages of Alzheimer's Disease; and
- improved data base development.

Grants or donations may be accepted to pay for all or part of the pilot program and an appropriation to the Department of Social Services of up to \$200,000 is included in the bill.

Concerning Requirements for Policies of Long-Term Care Insurance -- Bill 15

Alzheimer's Disease may no longer be excluded from long-term health care insurance policies due to lack of previous medical treatment under Bill 15.

The bill states that insurance policies for long-term health care that cover Alzheimer's Disease, senile dementia, other organic brain syndromes, or other types of senility diseases shall not require prior hospitalization or nursing home institutionalization of the insured in order to receive coverage for home health care. Many Alzheimer's patients become forgetful, disoriented, confused, and are in need of home health care, but do not require hospitalization or the skilled or intermediate care provided at a nursing home.

E. Legal Issues Affecting Long-Term Health Care Delivery

Concerning the Rights of Persons to Reject Life-Sustaining Nourishment  
-- Bill 16

Bill 16 expands an individual's "living will" to include the withdrawal of life sustaining nourishment in certain instances. The bill amends the "Colorado Medical Treatment Decision Act" to allow an individual to designate in his "living will" that nourishment provided through medical procedure or intervention be withdrawn after a period of 30 or more days, if nourishment is the only life-sustaining procedure being used. Because many elderly persons are in situations where life-sustaining nourishment may be their only life source for months or years, allowing them to choose to continue or to discontinue the life-sustaining nourishment was supported by the committee.

Concerning the Statutes of Limitations for the Commencement of Civil Actions in Colorado and in Connection Therewith Reinstating the Statute of Repose for Actions Involving Health Care and Amending the Definition of Persons Under a Disability and the Provisions Relating to the Accrual of Certain Causes of Action -- Bill 17

Bill 17 attempts to control malpractice litigation costs that lead to increases in malpractice insurance rates. High rates impact health care delivery, including long-term health care, especially in rural areas. The bill reinstates former statutory provisions of limitations concerning actions against health care providers. The provisions were not included in the omnibus statute of limitations revision bill of the 1986 session.

The bill provides that actions against health care providers may not be instituted more than three years after the injury except in the case of:

- knowing concealment and leaving an unauthorized foreign object in a patient's body, for which there is no limitation; and
- actions brought by or on behalf of a minor under six years old on the date of the occurrence, which may be instituted up to two years after the minor has reached six years of age.

The bill specifies that a cause of action accrues for an injury on the date the injury is discovered, or should have been discovered, rather than on the date both the injury and its cause are known or should have been known.

Concerning Periodic Payments of Tort Judgments in Civil Actions  
Against Health Care Providers and Health Care Institutions -- Bill 18

This bill also attempts to control malpractice litigation costs that impact on health care delivery including long-term health care. Judgments concerning future damages in civil actions (exceeding \$100,000) brought against any health care provider or health care institution are to be paid by periodic payments rather than as a lump sum payment. Monetary damages awarded for loss of future earnings will not be reduced or terminated by the death of the judgment creditor. The bill structures payments over a long period of time to assure a yearly payment which could be used for health care costs.

Concerning Protections For Quality Management Functions of Health Care  
Facilities -- Bill 19

Bill 19 declares that quality management systems, used to improve patient and resident care, are essential to the operation of licensed nursing homes and hospitals. The quality of health care can be enhanced through the thorough evaluation of care and services rendered by health care facilities.

In order to provide more complete evaluations of the facilities, the committee determined that confidentiality for evaluation information and qualified immunity for persons providing reports or participating in quality management functions is necessary. An exception from the confidentiality provisions is provided for a regulatory agency authorized by law to make inspections or investigations.

## BACKGROUND REPORT

### Introduction

The Committee on Long-Term Health Care Needs was charged with a broad study of the complex area of long-term health care policy, delivery, and financing. In conducting this study, the committee identified issues of concern to the entire population in need of long-term health care, but did not limit its study only to the long-term health care needs of the elderly. Consideration was given to long-term health care, those services designated to provide diagnostic, preventative, therapeutic, rehabilitative, supportive and maintenance services for individuals with chronic mental or physical conditions in hospitals, nursing homes or other alternative care settings. By adopting this broad perspective of long-term health care, the committee was able to take a more comprehensive view of the state's long-term health care population, fiscal role, and delivery system.

The committee approached the study charge by gathering information about the number of people in Colorado requiring, or at risk of requiring, long-term health care. After examination of the figures and special populations of long-term health care clients, current state expenditures for long-term health care were analyzed to identify cost containment options, financing priorities, and delivery system standards.

Most of the testimony and committee discussion focused on the need for long-range planning of a comprehensive long-term health care system for Colorado. The committee reviewed a comprehensive package of recommendations from the Department of Social Services for a "continuum of care", but determined that not all of the department's recommendations should be approved for 1988 because of the complexity of many of the issues. One of the committee's major recommendations is that a task force be created to take a long-range look at the long-term health care continuum in a way that the eight interim committee meetings did not allow.

This report describes the committee's findings in the areas of: 1) demographic trends; 2) service delivery systems; 3) financing; and 4) Alzheimer's Disease and special populations.

## Demographic Trends

### National Demographics

During recent years, various government agencies and private research organizations have made dramatic projections about the future life expectancy and size of the older population in America. These projections suggest significant future increases in life expectancy and a large increase in the number of elderly as a percentage of the population. In the census of 1980, there were 25.9 million Americans ages 65 and over -- 11.1 percent of the population. By the year 2040, when all remaining "baby boomers" (those born in the 19-year period from 1946 to 1964) will be in their older years, it is projected that there will be 67.3 million people ages 65 and older -- 20.5 percent of the population.

Projections for the total population from 1980 to 2000 show an increase of 18 percent, while the group aged 65 and over is expected to increase 37 percent. By the year 2000, 13.1 percent of Americans (35 million people) will be over 65 years of age and 6.5 percent (17 million people) will be over 75 years of age. By the turn of the century, the 75-85 age group is expected to increase from 7.7 to 12.2 million, while the population over 85 will more than double. The over-85 population is projected to increase three to four times faster than the population at large during the next two decades.

### Colorado Demographics

In 1987, there were approximately 302,000 persons in Colorado over the age of 65, or 11.1 percent of the total state population. This total represents a 21.6 percent increase in this population since 1980. It has been estimated that at least 12 percent of Colorado's over 65 population is below the poverty level.

Based on projections of the demographics section of the Colorado Department of Local Government, the elderly population in Colorado will continue to increase relative to the state's total population in greater proportions annually. For example, from 1987 to 1990 the state's elderly population is predicted to increase by 8.4 percent. From 1990 to the year 2000, the elderly population over 65 is anticipated to increase by 23.3 percent. In population terms, that percentage equals an over 65 years of age population of 404,800 persons in the year 2000.



## Mortality

Decreasing mortality rates have had and will continue to have a significant impact on the need for long-term care. Based on mortality experience in 1900, a man or woman born in that year could expect to live an average of 47.3 years; by 1982, life expectancy reached 74.5 years. From 1940 to 1980, the age-adjusted death rates for the elderly decreased by 38 percent. About half of the overall decline in mortality among the elderly during this period resulted from the decline in heart disease mortality and another quarter is associated with the fall in the death rate for stroke survivors. Contributing factors include improved medical services, greater availability of coronary care units, advanced surgical and medical treatment of heart disease, improved control of blood pressure, decreased smoking, increased exercise, and healthier life styles in general.

## Use of Health Care Services

The incidence of chronic illness increases with age and becomes a major cause of disability requiring medical care. Since the need for health care increases sharply with age, the very old (85 and over) have more need for medical assistance than the younger-old (65-85 years old). Older persons with chronic and disabling conditions are high users of medical resources. Studies show that elderly people make more frequent visits to physicians, are hospitalized more frequently, and stay in the hospital longer than younger people.

The rate of long-term care utilization also increases dramatically with age. For individuals over 85 years of age, the rate of use is 23 percent of that total population; for the 75 to 85 years of age, the rate is six percent; for the 65 to 74 age group, the utilization rate is two percent. About five percent of all elderly are in nursing homes compared with about 23 percent of the very old. Other chronically ill elderly persons are in psychiatric or other chronic disease hospitals, veteran's administration hospitals, and other long-term care facilities.

The impact of the aging of the population in the United States is projected to increase the number of days of hospital care required by 28 percent. The total number of physician visits is projected to increase 19 percent, and the number of nursing home residents is projected to increase 69 percent. There are regional variations to these projections. In the South and West, where the elderly will increase 60 percent, it is projected that the number of nursing homes will need to more than double to meet the needs of the projected elderly population.

Availability of Nursing Home Care and Number of Patients by Payment Source in Colorado

Nursing home occupancy. The following tables provide the number of licensed nursing care beds in Colorado (for the period October 1, 1986 through September 30, 1987) and lists patients by payment source and type of care. The total number of beds includes the 24 non-medicaid facilities in the state. It should be noted that nursing home beds licensed for skilled care may be occupied by patients needing intermediate care and that the number of empty beds was based on a one-day count completed on the day of each facility's inspection.

Table I

Nursing Home Capacity and Occupancy in Colorado for 1987

Number of Beds -- All Categories by Level of Care		
Skilled Care	12,938	
Intermediate Care	5,813	
Total Number of Beds		18,751
Total Number of Empty Beds in State		2,514
Approximate Occupancy Rate		86.6%

SOURCE: Department of Social Services

Table II

Number of Patients by Payment Source -- 1987

Title 18 -- Medicare Skilled Care	319	
Title 19 -- Medicaid Skilled Care	3,828	
Intermediate Care	6,102	
Private Pay -- Skilled Care	2,797	
Intermediate Care	3,191	
Total Number of Patients -- All Categories		16,237

Committee recommendations. Using projections from the tables presented concerning the future increased need for nursing home care, the committee recognized the importance of increased access and alternatives for long-term health care delivery. It was recommended that the development of alternative service systems from the private sector should be emphasized to reduce the dependency on government sponsored long-term health care programs.

## Service Delivery Systems

### Informal Support Systems

Families have provided crucial and irreplaceable support for many older persons. For example, it is estimated that family members provide about 60 to 80 percent of the care received by the disabled and elderly. Reports show that many families today are under considerable stress as they seek to remain intact and attempt to cope with the problems associated with caring for an elderly person.

The generation of "baby boomers" may face a different situation than existed in the past or exists today. First, they are having smaller families or not having children at all. The support from children in future years will be limited by the number of children they have. Second, the high divorce and remarriage rates, and the often low levels of child support payments, may contribute toward less financial assistance between the generations. Third, since a longer life expectancy of "baby boomers" is anticipated, it will become more difficult for the children of elderly parents to care for them. It may be a different situation for 45-year olds to care for their 65-year old parents than for 65-year olds to care for their parents.

Services to assist caregivers. The availability of services to assist families in their care giving role is also vitally important. Respite care, home care, personal care services, preventive outpatient care, dental care, and adult day care are among the services required to provide assistance to families who are under stress in caring for the elderly. Middle-income elders and their families and relatives may find it difficult to find available services such as respite care and adult day care, even when they can afford to pay some portion of these services.

Committee recommendations. Due to the immense stress on family and other Alzheimer's Disease caregivers, the need for accessible and affordable respite care relief was identified as a priority by the committee. The committee recommends Bill 14 which establishes a pilot program to provide respite care for persons caring for others that are afflicted by Alzheimer's Disease.

## Alternative Service Systems

Because of the decline in birthrates after 1964, there is concern as to whether the future working age population can produce enough to support the projected increased elderly population. There have been changes in Medicare and Social Security that make it difficult for elderly in need of long-term care to receive state assistance. Social Security has lowered the age of entitlement and further cuts in cost of living adjustments are expected. This lesser support may be exacerbated by the increased needs of the "baby boomers" who are likely to spend more time in old age, with increased need for assistance and support.

With government programs under increasing pressure, there has been more attention focused on the role of alternative government-sponsored programs and the role of the private sector in aiding older people. The committee's findings in regard to several of these alternatives are discussed in the following paragraphs.

Home and community based alternatives. States have attempted to limit the growth of the nursing home population, and thereby reduce or limit the growth of Medicaid expenditures, by establishing home or community based programs. It is contended that many people who do not require institutional care have been placed in nursing homes because Medicaid traditionally did not pay for services that might allow them to be cared for at home or in the community.

In 1981, the Medicaid law was changed to enable states to waive the provisions that limited Medicaid reimbursements for such services. Senate Bill 138 (1982 session) was enacted by the Colorado General Assembly to establish a home and community based program for the elderly in Colorado. A waiver was applied for from the federal government and the program was implemented in 1983. The waiver must be renewed in 1988. This program provides an alternative to nursing home care for the elderly, blind and disabled adults who: 1) are at risk of institutionalization; 2) are Medicaid eligible; and 3) can be served at a cost equal to or less than the average Medicaid cost for an intermediate care nursing facility.

Various evaluations and studies have examined the comparative costs of serving Medicaid long-term care eligible clients in the home and community based program versus the nursing home care alternative. A 1984 University of Colorado Health Sciences Center study found that the total average daily cost of home and community based clients was \$20.48, while the daily cost of nursing home clients was \$28.01.

While advocates of these various alternative programs claim they will improve the quality of life for those who otherwise may be placed in nursing homes, the federal Health Care Financing Administration (HCFA) says that it may be too soon to assess whether they will save money. Indeed, the study in Colorado cautioned that it may be too

soon to assess the long-range impact of the program on nursing home utilization and the state Medicaid budget.

It is estimated that more than 70 percent of those requiring long-term care are now receiving it outside of nursing homes. The HCFA has expressed concerns that these alternative service programs will serve many people who previously would have been taken care of at home without public assistance, thereby increasing the Medicaid budget. Other studies have indicated that these services have not reduced nursing home or hospital use or total service costs. In 1985, the federal government issued a new set of regulations to subject waiver programs to more scrutiny and cost restraints.

Committee recommendations. Numerous studies on home and community based services show a strong preference among the elderly for such services over nursing home care and that in many instances these alternative care systems can save state dollars. One of the committee recommendations is for a voluntary pre-admission screening program for patients entering nursing homes (Bill 2). The preadmission screening program, currently used in 21 states, will enable patients to learn about their health care needs through the evaluation. When appropriate, alternatives to nursing homes that might better suit the needs of the client will be presented.

The future development of the long-term health care system in Colorado is addressed by recommended legislation to: 1) establish a task force to consider policy and program issues of long-term health care (Bill 1); 2) implement services for the categorically needy, including services to allow the ventilator dependent to be served in the home (Bill 2); and 3) create a case management study and case management pilot project for chronically mentally ill and disturbed youth, particularly in rural areas (Bill 3). These recommendations are designed to better utilize the long-term care dollars spent by the state by serving clients in a less restrictive setting while still providing the quality of care necessary. The Department of Social Services projects that the client needs assessment program, and the provision of services to the categorically needy in the community or at home, will result in a substantial cost savings of over \$1 million in general fund appropriations.

### Quality of Care

One of the long-term health care issues of great concern involves the quality of care. The committee found that, despite thorough state regulation of health care facilities, several areas can be addressed to assure safety and increase the quality of life for individuals requiring long-term health care.

Committee recommendations. A need was identified to educate nurses' aides and to require a minimum level of training. The majority of all care to long-term health care patients is provided by nurses' aides who are the least educated and have the highest turnover of employees in the health care professions. Therefore, a proposal was approved that set minimum training requirements for nurses' aides (Bill 4). A second bill extends the hours of inspection of health care facilities to 24 hours per day to enhance the Department of Health's ability to evaluate and maintain the quality of care in such facilities (Bill 5). Another bill establishes rewards for facilities that provide a high level of care and a means of informing the public of the care available (Bill 6).

To possibly reduce the amount of money the state spends for the Medicaid program and to improve rehabilitation services in long-term care facilities, a bill is recommended to establish a pilot program to provide incentives to nursing facilities that successfully discharge Medicaid patients (Bill 7). The high turnover rates of employees of nursing facilities is addressed by providing an additional benefit for workers and promoting intergenerational contact between children and the elderly. Bill 8 is recommended to encourage the development of child care centers in nursing homes.

### Financing Long-Term Health Care

#### Expenditures for Long-Term Health Care

Nationally, expenditures for nursing homes have increased significantly over the past decade. Nearly half of those costs, more than \$14 billion a year, are now borne by the states and the federal government. Very little of the nursing home expenditures are covered by the federal-only Medicare, but almost entirely through Medicaid, a state-federal program. Since 1960, national nursing home expenditures have increased, growing from \$480 million in 1960 to \$20.7 billion in 1980. For most of that period, Medicaid spending on nursing homes increased over 20 percent per year, more than twice as fast as total state and local spending.

Medicare, on the other hand, provides health insurance coverage to most individuals 65 and over, and to others, but does not cover long-term care services. There are approximately 28 million elderly and three million disabled eligible beneficiaries on Medicare. In 1983, total outlays exceeded \$58 billion. Of this total, 69 percent was spent on hospital services and 23 percent on physician services. Less than one percent was spent for nursing home care. Thus, Medicaid has become the primary vehicle for the payment of long-term care services in the form of nursing home expenditures. However, some 80 percent of the elderly receiving Medicare believe it will cover their long-term care needs when it is actually an acute care insurer.

Medicaid. Medicaid now pays for approximately 48 percent of the total amount of all nursing home costs, and those costs account for nearly half of all Medicaid expenditures nationwide. In some states, the percentage is higher but in nearly every state Medicaid is one of the highest line-item expenditures. Medicaid appropriations in Colorado are under fiscal constraints because state fiscal capacity has not kept pace with program growth. Medicaid expenditure increases have been one-third to one-half higher than the growth rate of state revenue.

Colorado expenditures for Medicaid. In Colorado, approximately 50 percent of Medicaid funds are spent on long-term care patients. This expenditure is for 9.2 percent of the Medicaid population.

It is estimated that approximately three percent of the Gross National Product (GNP) is spent on health care services for the elderly. Many of the elderly become poor in old age and thus qualify for Medicaid. With old age, loss of a spouse, growing disability, and incomes eroded by inflation and medical expenses, the elderly often times find themselves "spent down" to a Medicaid-eligible level. Many middle-class people enter nursing homes as private pay patients and, once their savings are depleted, qualify for Medicaid. It is estimated by the U.S. Department of Health and Human Services that approximately one-half of all nursing home residents on Medicaid are newly impoverished people who spent most of their assets and income paying for medical and nursing home care.

Committee recommendations. Bill 11 is designed to protect spouses from impoverishment due to the medical care needed by their family member. The bill establishes that one-half of the married couple's income and assets belong to the husband and the other half to the wife. This allows a couple to "split" their assets when one spouse enters a nursing home. The spouse remaining at home will not have to spend all the couple's assets on nursing home care and may have the financial support necessary to avoid impoverishment.

#### Changing the Tax System to Allow Deductions for Long-Term Health Care/Introduction and Federal Role in Income Tax

Federal income tax. Under the current federal income tax system, an individual cannot claim a tax deduction when contributing to the cost of health services for a relative who is not a member of his household. Families and individuals may be discouraged from contributing to the cost of caring for a parent or other relative, even if such care would allow the person to remain in his home and avoid going into a nursing home. Whether state and federal tax systems should be changed to encourage people to share in the costs of caring for parents or others by allowing them to claim such expenses as a tax deduction, is a question which requires further examination.

Employer-mandated long-term health insurance coverage. As a method of reducing public expenditures for long-term care services, it has been suggested that the government mandate the inclusion of long-term care services as part of employer-based health insurance coverage to their retired employees. It has also been suggested that the government mandate that certain long-term care benefits should be included as part of their health insurance policy. Such supplemental benefits could be used as the primary payer, possibly allowing reduced governmental expenditures for long-term care services.

Individual medical accounts (IMA). In 1986, the General Assembly enacted House Bill 1102 which provides for the development of IMAs. An IMA allows, and encourages, people to invest money for medical expenses into a specific account that is not drawn on until retirement or upon reaching a certain age. Originally, individual investments were exempt from state income taxes until withdrawn. Currently, however, these accounts are not exempt from state or federal taxes.

Committee recommendation. The "Tax Equity Act of 1987" (House Bill 1331) imposes a flat income tax rate of five percent with the effect of eliminating the state tax deduction for funds deposited in IMAs. However, the committee believes that individuals should be encouraged to actively control their own finances and that incentives should be developed for individuals to plan for their future and to pay for their own health care needs. Therefore, the committee recommends a resolution to the United States Congress urging that a federal income tax deduction be established for money deposited in IMAs.

Private long-term health insurance. It is thought by some that private health insurers should be able to provide certain long-term care benefits, either as part of their health insurance policies which are sold to employers or as a distinct insurance package sold to individuals. Private long-term health care insurance could help curtail the extent to which private pay patients are forced into the Medicaid program and also help individuals plan for their retirement health care needs.

Advantages identified in the development of private long-term care insurance are the following: 1) provides financial support for the purchase of quality care; 2) enhances the opportunity for consumer choice; 3) preserves the dignity of elderly persons by giving them the opportunity to prudently plan for their potential long-term health care needs; 4) reduces federal and state exposure for the costs of future long-term health care services; 5) helps reduce reliance upon public programs as the source of payment for such services; and 6) assures market competition and induces the expansion of diversified service delivery.

Committee recommendation. Along with the IMAs, the state's previous deduction for long-term health care insurance premiums was



eliminated by the flat tax bill of 1987 (House Bill 1331). However, the committee concluded that long-term health care insurance should be promoted in order to encourage individuals to pay for their own health care needs and possibly reduce government costs for nursing home care. The committee recommends a resolution to the United States Congress urging the enactment of a federal tax deduction for long-term health care insurance premiums.

Other alternatives in the private sector. While publicly financed health care alternatives are facing federal and state fiscal restraints, private sector alternatives seem to be attracting increased attention because of the improved economic status of some of the elderly. Recent economic reports show that the median real annual income of the elderly has more than doubled since 1950 to more than \$21,420 (before taxes) for families 65 years of age and over. Among the options that could bring more private dollars into long-term care are financing arrangements designed to use wealth that many elderly have invested in their homes. One approach is the "reverse annuity mortgage" in which an individual retains title to a house but draws on the equity for monthly cash. Another approach is "life care communities" where elderly people pay an initial lump sum amount and monthly fees to live in a private community that offers medical, nursing, and social services.

### Alzheimer's Disease

The committee recognized that disorders causing dementias constitute a large and growing public health concern and that there have been few, if any, public policy decisions made in the area. The stress dementing illness has on family members and the need for appropriate care options was of particular concern as the committee studied these illnesses. The committee's findings in this area are summarized below.

#### Alzheimer's Disease -- Background

Definition. Senile Dementia of the Alzheimer's type, or Alzheimer's Disease, is a progressive, irreversible neurological disorder that affects an estimated 1.5 million American adults. According to a newly released study by the Office of Technology Assessment, it is the most common form of dementing illness. The disease can last as long as 15 to 20 years.

The disease was first identified and described by Alois Alzheimer in 1906. The disease affects men and women almost equally and strikes mostly people over 65; however, it can also strike adults in their 40's and 50's. Alzheimer's Disease and other forms of irreversible dementia, which were thought for years to be a natural part of the

aging process, have now been called "the disease of the century" because of the far-reaching physical, emotional, and financial burdens they place on victims of the disease and their families.

Symptoms. Alzheimer's Disease is a dementing illness which involves loss of memory and loss of intellectual abilities, often severe enough to interfere with routine work and social activities. There are four stages of the disease which are often identified in current research:

- Stage 1 -- less spontaneity, less energy and initiative, loss of words, slower to learn, slower to react, easily provoked, seeks and prefers the familiar, shuns unfamiliar;
- Stage 2 -- often needs more assistance in specialized activities, much slower in speech and understanding, difficulty making decisions, inability to calculate, self-absorbed, insensitive to feelings of others, loses the thread of a story;
- Stage 3 -- obviously disabled, markedly changed behavior, unsure of how to act, needs directions repeatedly, failing memory of recent past, astonishingly clear memory of distant past; and
- Stage 4 -- needs help with daily tasks of living, apathetic, poor remote or recent memory, incontinent, preservation of phrases and syllables, no recognition of individuals.

Diagnosis. Reports emphasize the importance of accurate diagnosis, as there are as many as 100 treatable conditions with symptoms similar to those of Alzheimer's Disease. At this time, an absolutely positive diagnosis of Alzheimer's Disease comes only from brain-tissue biopsy (a procedure involving some pain and risk of infection; these procedures are rarely if ever done in the United States) or from autopsy. Recommended tests for Alzheimer's Disease include physical, neurological, psychological, and psychiatric examinations and, occasionally, study of the spinal fluid. While these evaluations may provide a diagnosis of Alzheimer's, the only accurate confirmation of the disease is examination of the brain tissue.

Cause(s) and research. The cause of Alzheimer's Disease is not known and is currently being studied extensively. Suspected causes include a slow virus or other infectious agent, environmental toxins such as aluminum, a genetic predisposition, and immunologic changes. Many other factors are also under investigation. Most of the genetic research has focused on narrowing the genetic alphabet to a smaller number of probable connected characters.

## Alzheimer's Disease -- Treatment

Although no cure for Alzheimer's Disease is currently available, it is becoming more recognized that good planning, and proper medical and social management, can ease the burden on the patient and family. Also, appropriate medication may lessen agitation, anxiety, and unpredictable behavior, as well as, improve sleeping patterns and treat depression. Physical exercise and social activity are important, as are proper nutrition and health maintenance.

Drug -- THA. A new drug (THA) treatment for Alzheimer's was developed by a California psychiatrist named William K. Summers. In an initial study, published last year in the New England Journal of Medicine, Dr. Summers reported significant cognitive response in 16 of 17 patients taking the drug. The drug appears to slow the process of the disease. Before the drug is available, the Federal Drug Administration will conduct a test on 300 patients. The availability of the drug will depend on the success of the FDA's test.

Other areas for treatment. Alzheimer's Disease patients may be assisted with treatment programs for the following areas.

- Counseling and psychological support. Because of the tremendous anxiety and depression felt by these patients, supportive counseling and possibly psychotropic medications for anxiety and depression may prove very useful.
- Behavioral control. The patient may experience irritability, aggressive behavior, outbursts, and possible paranoia. The careful use of medication may help with this behavior, allowing the patient to remain at home for much longer periods of time and co-exist comfortably with their families.
- Bladder and bowel control;
- Stability of walking;
- Sleep disturbance; and
- Specific memory improvement. A number of medications are being studied to improve Alzheimer's patient's memory. There is great need, however, to further research these areas.

## Programs and Services for Alzheimer's Patients

Most programs and services designed for Alzheimer's patients are less than five years old, and the total number of patients receiving

specialized care is small. There is little research on specialized care for Alzheimer's patients, and according to a major report published in April 1987 by the Office of Technology Assessment (OTA), Losing a Million Minds, additional research is urgently needed to assist caregivers, service providers, and policy makers.

Some of the different services which may be tailored to provide specialized Alzheimer's treatment include:

- companion care, home health care, and visiting nurses;
- adult day care;
- respite care;
- short-term residential care;
- hospice care; and
- residential special care.

Residential special care is receiving much attention due partially to the great number of Alzheimer's patients in residential care facilities. Most specialized residential care is provided by the new development of specialized Alzheimer's units in nursing homes. Both for-profit and the non-profit sectors are hiring experts, having conferences and opening "special" units. Others have not segregated the residents, but offer the special programs in regular units.

"Special" units -- costs -- availability. According to the OTA report, it is estimated that fewer than 500 special units are developed or close to completion, although more are planned. This means that, of the 50 to 75 percent of nursing home patients with a dementing illness, only a small portion are in such units.

The consensus among experts in the area is that good care in special units for dementias requires more staffing and better trained staff, and probably more square feet per patient than required by Medicare, Medicaid, or state standards. The cost factors have not been established, but estimates are that special treatment may cost \$5 to \$10 more per day over other patients.

### Families

It is estimated that about two-thirds of all Alzheimer's sufferers are cared for at home, particularly in the beginning of the illness. It is important, therefore, to consider ways to ease the stress and difficulty of caring for an Alzheimer's patient at home. The nature of the disease makes family care more trying. Many patients are up all night, cannot dress, bath or eat alone, and after a time they may need assistance walking. Furthermore, many patients respond to care with anger or resistance and even may accuse a caregiver of stealing from them, or trying to harm them. All these behaviors thereby complicate the tasks of personal care.

Helping families. Respite care has been identified as a key element in helping families and has been proposed as a means of reducing costs by enabling families to continue home care. Respite care is any formal program that cares for the person with dementia on a part-time basis so that the caregiver may remain employed, and take care of personal needs. Respite programs include in-home personal care, adult day care, in-home companion care, short-term nursing home care, and hospital or boarding home care.

### Financing Issues

Medicare. Individuals can establish eligibility for Medicare in many ways. Medicare covers acute medical care, not long-term care. Most elderly qualify at age 65 based on their eligibility for social security benefits. By contrast, the major basis of Medicare eligibility for persons with dementia under the age of 65 is fraught with complexities. Persons under age 65 may establish eligibility if they have been entitled to social security or railroad retirement benefits because of disability for at least 24 months.

Medicaid. Eligibility for Medicaid is largely a matter of state government activity. In Colorado, as in many other states, eligibility is linked to the criteria for Supplemental Security Income (SSI). Medicaid is granted to anyone receiving SSI benefits who applies, but the effect is to require most applicants to be impoverished before eligibility may be established. This situation adds to the difficulties of the families of Alzheimer's patients because most private insurance plans do not cover the services required by a person with dementia. People who cannot establish Medicaid eligibility through the SSI eligibility linkage, generally cannot qualify for Medicaid regardless of the extent of their medical bills. This limitation is included in the federal Medicaid statute.

In Colorado, persons with dementia as well as other aged or disabled persons may be eligible for aid through the nursing home cap program designed to assist persons who are not recipients of Aid for Families with Dependent Children (AFDC) or SSI. Under this program, a nursing home patient with a 1986 income under \$1,009 could be eligible for coverage of the costs of care while in the home. This program allows states to provide some financial assistance for nursing home care without opening up its Medicaid programs to all disabled or elderly persons with high medical bills.

### Extent of Alzheimer's Disease in Colorado

According to the Colorado Department of Health, as of October 1, 1987, a total of approximately 3,687 Alzheimer's patients are being served in Colorado facilities regulated by the department. (There are approximately 19,000 nursing home patients in Colorado.) Not all facilities have provided the department with data on Alzheimer's patients therefore the estimated number is probably lower than the actual number.

This was the first year that the department included a specific question about Alzheimer's on its annual survey. The question was worded by asking health care facilities how many patients appear to have a dementing illness as one of their three major diagnoses. The department's survey also shows that there are thirteen "Alzheimer's Units" in the some 180 licensed nursing homes in Colorado. These "units" provide some type of specialized care for Alzheimer's patients.

### Committee Recommendations

Extensive testimony was presented on long-term health care as it relates to special populations and Alzheimer's Disease. The rehabilitative needs of stroke survivors and the value of a stroke prevention program were considered. The committee also studied a proposal for a case management program for the mentally ill, based on the vulnerability of persons in this group in determining which services and funding possibilities available would be appropriate for their needs.

The special needs of spinal cord and head injury patients were discussed as well as problems associated with infants or other heavy care patients requiring long-term care. The need for respite care to relieve family caregivers for Alzheimer's patients, and the need for additional services in rural areas for Alzheimer's Disease patients was also considered.

Bills are recommended to: 1) extend protective services to disabled adults (Bill 12); 2) develop a specialized training program on dementing illnesses including Alzheimer's Disease (Bill 13); 3) establish an Alzheimer's Disease respite care pilot program (Bill 14); 4) attempt to ensure that Alzheimer's Disease would not be excluded from long-term health care insurance policies due to the lack of previous medical treatment (Bill 15); and 5) create a task force on long-term health care with specific responsibility to study ways of treating and financing the needs of patients with Alzheimer's Disease and other special long-term health care needs (Bill 1).

### Other Topics Considered

The urgent issue of the rising costs of malpractice insurance was brought to the attention of the committee. Malpractice insurance costs are effecting the access to quality health care, particularly in Colorado's rural areas where many obstetricians and family medicine physicians who deliver babies are reported to be closing their practices.

Although there has been malpractice reform legislation, in the past, the issue was considered of significant concern to warrant committee action. Testimony was taken and proposals were considered that could help to control malpractice litigation costs that lead to increases in malpractice insurance rates and which is impacting health care delivery including long-term health care.

Committee recommendations. Two bills are recommended to help control malpractice litigation costs. The first bill concerns the statute of limitations and provides that actions against health care providers may not be instituted more than three years after the injury except in certain situations. The second bill would require that judgments against any health care provider be paid by periodic payments rather than a lump sum payment (Bills 17 and 18).

### Sources

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6. Long-Term Care Source Book -- Policy, Data, Colorado Department of Social Services, Denver, CO, July 1987.
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8. Statistical Abstract of the United States, Bureau of the Census, Washington, DC, 1986.
9. State Demographer, Department of Local Affairs, State of Colorado.



Bill 1

BY REPRESENTATIVE Allison;  
also SENATOR Hopper.  
Interim Committee on Long-term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING THE CREATION OF A TASK FORCE ON LONG-TERM HEALTH  
2 CARE.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes a task force to address policy and program issues in long-term health care, including the development of a unified long-term care plan and budget and implementation of administrative and management procedures designed to operate a cost-effective long-term care system. Specifies the issues to be addressed by the task force. Specifies the membership of the task force. Authorizes the acceptance of grants or donations to pay for research and staff support.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Title 26, Colorado Revised Statutes, 1982  
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
6 ARTICLE to read:

7 ARTICLE 4.6

8 Task Force on Long-term Health Care

9 26-4.6-101. Legislative declaration. The general

1 assembly recognizes the expanding demographics of the elderly  
2 and the disabled in Colorado and that it is expected that the  
3 number of persons in need of long-term care support will  
4 double between the years 1980 and 2000. The general assembly  
5 recognizes the fact that long-term care provided in home and  
6 community settings is both preferred by clients and is  
7 frequently more cost-effective and that there is a need for  
8 the development and support of a well-organized, managed, and  
9 controlled long-term care system in this state. The general  
10 assembly recognizes that the issues concerning long-term care  
11 are complex and varied and, therefore, there is a great need  
12 to study and research such issues carefully in order to  
13 develop rational legislative and executive responses to the  
14 growing demand for a comprehensive long-term care system.  
15 Therefore, it is the intent of the general assembly that the  
16 task force appointed pursuant to this article shall  
17 comprehensively study and research the long-term care system  
18 and develop recommendations for legislation improving the  
19 long-term care system in this state.

20 26-4.6-102. Definitions. As used in this article,  
21 unless the context otherwise requires:

22 (1) "Community-based" means services provided in an  
23 individual's home or in a home-like setting.  
24 "Community-based" does not include a hospital, skilled nursing  
25 facility, intermediate care facility, or nursing home.

26 (2) "Continuum of care" means an organized system of  
27 care, benefits, and services to which a client has access and

1     which enables a client to move from one level or type of care  
2     to another without encountering gaps or barriers in service.

3           (3) "Home and community-based services" has the same  
4     meaning as that set forth in section 26-4.5-103 (5).

5           (4) "Long-term care" means those services designed to  
6     provide diagnostic, preventive, therapeutic, rehabilitative,  
7     supportive, and maintenance services for individuals who have  
8     chronic physical or mental impairments, or both, in a variety  
9     of institutional and noninstitutional settings, including the  
10    home, with the goal of promoting the optimum level of  
11    physical, social, and psychological functioning of the  
12    individuals.

13           26-4.6-103. Task force on long-term health care -  
14   creation - issues to be studied. (1) In order to provide  
15    legislative overview of and study of the long-term care system  
16    in this state and to develop recommendations for legislation  
17    improving the long-term care system, there is hereby  
18    established the task force on long-term health care. The  
19    membership of the task force shall consist of twenty-five  
20    members. The speaker of the house of representatives and the  
21    president of the senate shall appoint six legislators,  
22    representing each political party, to serve on the task force  
23    and shall appoint one of those six members to serve as the  
24    chairman. The speaker of the house of representatives and the  
25    president of the senate shall appoint six members who shall be  
26    knowledgeable about long-term health care issues and who  
27    represent agencies and associations of hospitals, nursing

1 homes, home health or other types of home and community-based  
2 caregivers, physicians, and dietitians. The speaker of the  
3 house of representatives and the president of the senate shall  
4 appoint six members who are knowledgeable in the concerns and  
5 special needs of the following special populations requiring  
6 long-term health care: Stroke patients; chronically mentally  
7 ill persons; spinal cord and head injured persons; disabled  
8 infants; persons with Alzheimer's disease or other dementing  
9 illnesses; and persons with acquired immune deficiency  
10 syndrome. The speaker of the house of representatives and the  
11 president of the senate shall appoint two members who are  
12 knowledgeable about long-term health care issues and who  
13 represent associations which serve as advocates for the  
14 elderly. The executive directors of the departments of  
15 health, social services, and institutions or their designees  
16 shall also be members of the task force. The executive  
17 director of the university of Colorado health sciences center  
18 or his designee and the state nursing home ombudsman shall  
19 also be members of the task force. Appointments to the task  
20 force shall be made no later than July 1, 1988.

21 (2) The task force shall study and address the following  
22 issues: Case management; case mix reimbursement system;  
23 client assessment; development of the long-term care access  
24 system; innovative funding mechanisms, including but not  
25 limited to long-term care insurance, social health maintenance  
26 organizations, reverse home equity programs, individual  
27 medical accounts, tax incentives, and sources of private and

1 public funds; rate and reimbursement methodology for  
2 community-based and institutional services; the needs of  
3 special populations of persons requiring long-term care; the  
4 roles of the state, local governments, and the private sector;  
5 the integration of programs and services into a continuum of  
6 care; disabled adult protection; shortages of physical  
7 therapists and other health care providers; methods to ensure  
8 adequate standards for board and care and to provide quality  
9 of care for patients; support of family caregivers; respite  
10 care services; nursing home regulations; diagnosis and  
11 treatment of certain diseases and conditions, including  
12 acquired immune deficiency syndrome; education and training of  
13 the public and of caregivers; development of specific programs  
14 for Alzheimer's disease; reimbursement for those persons under  
15 the age of sixty-five; the need for the development of  
16 nutrition services to prevent chronic disease and improve the  
17 general health of citizens; nutrition and education training;  
18 reimbursement of dietetic services under insurance laws; and  
19 any other relevant issues.

20 (3) Unless extended beyond July 1, 1991, the task force  
21 shall make its final report to the general assembly on its  
22 recommendations for legislation concerning the long-term care  
23 system on or before January 1, 1991.

24 (4) In addition to the issues studied in subsection (2)  
25 of this section, the task force is specifically required to  
26 address and report back to the general assembly and to the  
27 state department annually upon the progress of and make

1 recommendations concerning the following:

2 (a) The development and presentation of a unified  
3 long-term care plan and budget, including all programs,  
4 services, and state expenditures falling under the continuum  
5 of long-term care for the state fiscal year 1990-91 and for  
6 each subsequent fiscal year; and

7 (b) The development and incremental implementation of  
8 such administrative and management procedures, such as  
9 performance-based contracting and quality control systems and  
10 case management agency designation, as may be useful in the  
11 operation of a cost-effective, accountable, and safe continuum  
12 of long-term care, and as may promote the development of  
13 consortiums and the development of agencies at community or  
14 regional levels and encourage the use of public or private  
15 contractors which will optimally meet the needs and utilize  
16 the available resources of each community.

17 (5) The task force shall create a subcommittee on  
18 Alzheimer's disease and on any other topics it deems  
19 necessary. The subcommittee on Alzheimer's disease shall:

20 (a) Study all aspects of Alzheimer's disease from  
21 diagnosis through treatment, cure, and research, and the  
22 impacts of the disease on the health care system, family  
23 systems, social support system, and financing system;

24 (b) Consider the current interaction of relevant  
25 policies and programs and make recommendations for  
26 improvements and methods to improve coordination and reduce  
27 duplication of effort;

1           (c) Review available data and recommend other types of  
2 data that would be useful to collect;

3           (d) Discuss major issues, in coordination with the study  
4 of these topics by the task force, including: Reimbursement  
5 for those persons under sixty-five; family support; nursing  
6 home regulations; access to care; diagnosis and treatment;  
7 public and private financing; education and training; public  
8 information; Alzheimer's specific programs; and continuum of  
9 care models with case management.

10          (6) The task force shall meet when necessary with  
11 representatives of the departments of social services, health,  
12 and institutions and may consult with other experts and  
13 interested groups as may be necessary. The staffs of the  
14 legislative council and of the state auditor shall assist the  
15 committee.

16          26-4.6-104. Private sources of funding. The task force  
17 on long-term health care is authorized to receive  
18 contributions, grants, services, and in-kind donations from  
19 private sources and may use such donations to pay for the  
20 direct and indirect costs of research and to compensate  
21 nonprofit agencies and private groups who assist the task  
22 force by supplying staff support.

23          26-4.6-105. Repeal. This article is repealed, effective  
24 July 1, 1991.

25          SECTION 2. Safety clause. The general assembly hereby  
26 finds, determines, and declares that this act is necessary  
27 for the immediate preservation of the public peace, health,  
28 and safety.

Bill 2

Interim Committee on  
Long-term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING THE IMPLEMENTATION OF A CONTINUUM OF CARE FOR  
2 ELDERLY AND DISABLED PERSONS WHO REQUIRE LONG-TERM CARE,  
3 AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the implementation of the following optional basic services for the categorically needy if the executive director of the department of social services determines that the services are cost-effective: Private duty nursing; ventilator services; hospice benefit services; case management services; and personal care. Permits a program to be implemented, when cost-effective, to provide medicaid personal care services for persons who are receiving or are eligible to receive a home care allowance.

Requires the department of social services to develop a long-term client needs assessment instrument to determine the client's care needs and the method of payment for such needs. Requires nursing homes to refer all nursing home applicants to a voluntary preadmission needs assessment review which would determine the client's needs and inform the client of alternatives to nursing home care. Authorizes the department of social services to collect a fee (which may be reimbursed by private or public sources) for such preadmission review from the applicant. Provides that, if a nursing home fails to refer an applicant for preadmission review and the person is admitted to a nursing home and subsequently qualifies for medical assistance or other state-funded assistance, the department of social services may deny payment to the nursing home for that client for a certain period of time.



Authorizes the department of social services to conduct a pilot project to study the coordination of and access to long-term care services at the community level. Makes an appropriation to the department of social services to implement this act.

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1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. 26-4-105 (1), Colorado Revised Statutes, 1982  
3 Repl. Vol., as amended, is amended BY THE ADDITION OF THE  
4 FOLLOWING NEW PARAGRAPHS to read:

5 26-4-105. Basic services for categorically needy.

6 (1) (q) Private duty nursing;

7 (r) Services to individuals who are ventilator  
8 dependent;

9 (s) Hospice benefit services;

10 (t) Case management services;

11 (u) Personal care.

12 SECTION 2. Article 4 of title 26, Colorado Revised  
13 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
14 ADDITION OF A NEW SECTION to read:

15 26-4-105.3. Optional services for categorically needy -

16 cost-effective. (1) Subject to a finding by the executive  
17 director that one or more of the basic services for  
18 categorically needy as provided in section 26-4-105 (1) (q) to  
19 (1) (u) are cost-effective, the state department may provide  
20 one or more of the following basic services for the  
21 categorically needy:

22 (a) Private duty nursing;

23 (b) Services to individuals who are ventilator

1 dependent;

2 (c) Hospice benefit services;

3 (d) Case management services;

4 (e) Personal care.

5 (2) In implementing personal care services pursuant to  
6 paragraph (e) of subsection (1) of this section, the state  
7 department may implement, when it is cost-effective, a program  
8 to provide medicaid personal care services to persons who are  
9 receiving or are eligible to receive a home care allowance as  
10 authorized in section 26-2-114 (2).

11 SECTION 3. 26-4.5-103, Colorado Revised Statutes, 1982  
12 Repl. Vol., as amended, is amended BY THE ADDITION OF THE  
13 FOLLOWING NEW SUBSECTIONS to read:

14 26-4.5-103. Definitions. (1.5) "Care plan" means a  
15 plan for long-term care services.

16 (4.5) "Client needs assessment" means a procedure and  
17 methodology for objectively measuring and analyzing an  
18 individual's entire range of needs for long-term care,  
19 including, but not limited to, functional, medical,  
20 psychosocial, and environmental needs.

21 (12.5) "Long-term care" means those services designed to  
22 provide diagnostic, preventive, therapeutic, rehabilitative,  
23 supportive, and maintenance services for individuals who have  
24 chronic physical or mental impairments, or both, in a variety  
25 of institutional and noninstitutional settings, including the  
26 home, with the goal of promoting the optimum level of  
27 physical, social, and psychological functioning of the

1 individuals.

2 (14.5) "Nursing home" means a facility which provides  
3 skilled nursing home services or intermediate care nursing  
4 home services.

5 SECTION 4. Part 1 of article 4.5 of title 26, Colorado  
6 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY  
7 THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

8 26-4.5-116. Long-term care client needs assessment -  
9 preadmission reviews - fee - penalty for failure to refer  
10 applicants. (1) The state department shall develop and  
11 implement by July 1, 1990, a long-term care client needs  
12 assessment instrument for all individuals needing long-term  
13 care. This instrument shall be used to determine which  
14 long-term care services a client needs and who will pay for  
15 such services and to assist individuals in developing a care  
16 plan.

17 (2) The state department shall make available as a  
18 voluntary program a system of preadmission needs assessment  
19 review to all persons applying for admission to a nursing  
20 home, whether or not such person is a recipient of public  
21 assistance or is expected to finance the nursing home stay  
22 with private funds. The purpose of such preadmission review  
23 is to determine the care needs of the individual and the  
24 appropriate level of care to meet the individual's needs,  
25 inform the individual prior to his becoming institutionalized  
26 about alternatives to nursing home care which would  
27 appropriately meet his care needs, and allow the individual

1 and his family to make a more informed decision about whether  
2 the individual should enter a nursing home facility or should  
3 choose a less expensive and less restrictive level of care.  
4 An individual who is or will be paying privately for nursing  
5 home care is not obligated to participate in the preadmission  
6 review. A reasonable fee for such preadmission review shall  
7 be set by the state department by rule and regulation. Such  
8 fee shall be paid by the individual applying for nursing home  
9 admission; except that such requirement shall not preclude  
10 coverage of such fee through private insurance, medical  
11 assistance, or other public funding. Nursing homes shall  
12 refer all applicants for preadmission review to the agency  
13 designated by the state department. If a nursing home fails  
14 to refer an applicant for such preadmission review and if that  
15 individual enters the nursing home and subsequently applies  
16 and qualifies for medical assistance or other state-funded  
17 nursing home care reimbursement, the state department may deny  
18 payment to the nursing home for up to six months for that  
19 client. The nursing home shall not deny appropriate care and  
20 admission to the client for that period and shall not bill or  
21 otherwise recover from the patient or his family or estate or  
22 assigns the cost of such care or admission.

23 26-4.5-117. Long-term care access system pilot project.  
24 (1) The state department shall implement and study a pilot  
25 project on a long-term care access system which provides for  
26 coordination of care services at the community level and is  
27 available to all persons needing long-term care. This system

1 would provide client needs assessment, payment resource  
2 coordination, and care planning and referral through local  
3 governments or private agencies in the local community under  
4 agreements with the state department.

5 (2) The state department shall report annually to the  
6 general assembly on the progress and effectiveness of the  
7 pilot project.

8 (3) This section is repealed, effective July 1, 1992.

9 SECTION 5. Appropriation. (1) In addition to any other  
10 appropriation, there is hereby appropriated, out of any moneys  
11 in the general fund not otherwise appropriated, to the  
12 department of social services, the sum of eight hundred nine  
13 thousand eight hundred seventy-one dollars (\$809,871) and 1.25  
14 FTE, or so much thereof as may be necessary, for the  
15 implementation of private duty nursing services and services  
16 to individuals who are ventilator dependent.

17 (2) In addition to any other appropriation, there is  
18 hereby appropriated, to the department of social services, for  
19 the fiscal year beginning July 1, 1988, the sum of forty-nine  
20 thousand four hundred seventy-eight dollars (\$49,478) and 2.0  
21 FTE, or so much thereof as may be necessary, of which total  
22 sum, twenty-four thousand seven hundred thirty-nine dollars  
23 (\$24,739) shall be out of any moneys in the general fund not  
24 otherwise appropriated and twenty-four thousand seven hundred  
25 thirty-nine dollars (\$24,739) shall be from federal funds, for  
26 the implementation of personal care services.

27 (3) In addition to any other appropriation, there is

1 hereby appropriated, to the department of social services, for  
2 the fiscal year beginning July 1, 1988, the sum of  
3 eighty-three thousand three hundred fifty-nine dollars  
4 (\$83,359) and 2.0 FTE, or so much thereof as may be necessary,  
5 of which total sum, twenty thousand eight hundred forty  
6 dollars (\$20,840) shall be out of any moneys in the general  
7 fund not otherwise appropriated and sixty-two thousand five  
8 hundred nineteen dollars (\$62,519) shall be from federal  
9 funds, for the implementation of the preadmission needs  
10 assessment review.

11 SECTION 6. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary  
13 for the immediate preservation of the public peace, health,  
14 and safety.

Bill 3

Interim Committee on  
Long-term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING THE STUDY OF CASE MANAGEMENT SERVICES, AND  
2 PROVIDING FOR A LEGISLATIVE-INTERAGENCY TASK FORCE ON  
3 CASE MANAGEMENT AND A PILOT PROJECT FOR AN INDEPENDENT  
4 CASE MANAGEMENT SYSTEM, AND MAKING AN APPROPRIATION IN  
5 CONNECTION THEREWITH.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Creates a legislative-interagency task force to study the delivery, administrative structure, and financing implications of case management services for all disabled persons; the feasibility and cost-effectiveness of an independent case management system serving clients of the departments of education, health, institutions, and social services; the ongoing citywide case management demonstration project; the delivery of case management in all areas of the state; and a pilot project authorized by this act. Requires the task force to report on its findings to the general assembly on a certain date. Defines case management for the purposes of this act.

Authorizes the department of institutions to develop and administer a pilot project on case management for chronically mentally ill persons and emotionally disturbed youth which shall be located in the rural areas of the state. Directs that such pilot project shall be an independent system which uses a team management model and a local advisory board. Authorizes the department of institutions to receive grants, donations, and services from private sources to pay for the costs of the pilot project on case management.

Makes an appropriation to the department of institutions to implement this act.

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1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. Part 1 of article 1 of title 27, Colorado  
3 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY  
4 THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

5 27-1-110. Task force on case management. (1) There is  
6 hereby created a legislative-interagency task force on case  
7 management which shall study the delivery of services through  
8 case management. There shall be fifteen members of the task  
9 force. The speaker of the house of representatives shall  
10 appoint two legislators from the house of representatives,  
11 representing each political party, to serve on the task force.  
12 The president of the senate shall appoint two legislators from  
13 the senate, representing each political party, to serve on the  
14 task force. The governor shall appoint five members, who  
15 shall represent advocacy groups concerned with the interests  
16 of the mentally ill, developmentally disabled, and the  
17 elderly. The governor shall appoint two members who represent  
18 providers of mental health services. The commissioner of  
19 education and the executive directors of the department of  
20 health, department of social services, and department of  
21 institutions or their designees shall also be members of the  
22 task force. The members of the task force shall serve without  
23 compensation.

24 (2) The task force shall study the following:



1           (a) The delivery, administrative structure, and  
2           financing implications of case management services for all  
3           disabled persons;  
4           (b) The feasibility and cost-effectiveness of  
5           establishing an independent case management entity for all  
6           persons with disabilities which would serve clients of the  
7           departments of education, health, institutions, and social  
8           services;  
9           (c) The citywide case management demonstration project  
10          operated in the city and county of Denver;  
11          (d) The delivery of case management services in urban,  
12          suburban, and rural areas of the state;  
13          (e) The pilot project on case management as set forth in  
14          section 27-1-111.  
15          (3) The task force shall report the results of its study  
16          and make any recommendations to the general assembly on or  
17          before January 1, 1990.  
18          (4) For purposes of this section and section 27-1-111,  
19          "case management" means a single point of entry and  
20          coordination of services with uniform eligibility  
21          requirements, an assessment of the individual's strengths and  
22          weaknesses, a coordinated plan for needed services developed  
23          by the individual, family members, when appropriate, and an  
24          inter-disciplinary team with goals and measurable objectives,  
25          periodic review, and ongoing monitoring of the service  
26          delivery. Case management may be developed as an independent  
27          system in which the case manager acts as an advocate for the

1 individual and serves as a broker to locate and purchase  
2 appropriate services for the individual. Case management may  
3 also be developed in conjunction and cooperation with the  
4 direct service providers.

5 (5) This section is repealed, effective July 1, 1990.

6 27-1-111. Pilot project on case management. (1) The  
7 department of institutions shall develop and administer a  
8 pilot project on case management for chronically mentally ill  
9 persons and emotionally disturbed youth located in a rural  
10 area or areas of the state. Such pilot project shall be an  
11 independent system in which the case manager acts as an  
12 advocate for the individual and serves as a broker to locate  
13 and purchase appropriate services for the individual. Such  
14 project shall use a case management team leader and a case  
15 management team supervised by the division of mental health  
16 and assisted by a local advisory board comprised of family  
17 members of chronically mentally ill persons, recovering  
18 chronically mentally ill persons, and mental health advocates.

19 (2) For purposes of this section, "case management" has  
20 the same meaning as defined in section 27-1-110 (4).

21 (3) This section is repealed, effective July 1, 1990.

22 27-1-112. Private sources of funds. (1) The department  
23 of institutions is authorized to receive contributions,  
24 grants, services, and in-kind donations from private sources  
25 and may use such donations to pay for all or some of the costs  
26 of the pilot project on case management as specified in  
27 section 27-1-111.

1           (2) This section is repealed, effective July 1, 1990.

2           SECTION 2. Appropriation. In addition to any other  
3   appropriation, there is hereby appropriated, to the department  
4   of institutions, for the fiscal year beginning July 1, 1988,  
5   the sum of thirty-six thousand dollars (\$36,000), or so much  
6   thereof as may be necessary, for the implementation of this  
7   act. Of such total sum, eighteen thousand dollars (\$18,000)  
8   shall be from the general fund and eighteen thousand dollars  
9   (\$18,000) shall be transferred from line items appropriated to  
10   the division of mental health as determined by the executive  
11   director of the department of institutions.

12          SECTION 3. Safety clause. The general assembly hereby  
13   finds, determines, and declares that this act is necessary  
14   for the immediate preservation of the public peace, health,  
15   and safety.

Bill 4

Interim Committee on  
Long-term Health Care Needs

A BILL FOR AN ACT

- 1 CONCERNING PERSONS EMPLOYED AS NURSES' AIDES BY CERTAIN  
2 SKILLED AND INTERMEDIATE NURSING FACILITIES.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Prohibits the employment of any person as a nurses' aide in a skilled or intermediate nursing facility unless that person has completed a specified period of nurses' aide instruction or the number of hours required by federal regulations for certification as a nurses' aide or unless that person has worked in one such facility before a certain date. Allows the department of health to suspend, revoke, or deny an application for a license to operate any such facility which employs nurses' aides who do not meet the instructional or experience requirements. Prohibits contract service employee services from providing to skilled or intermediate nursing facilities nurses' aides who are not certified. Requires the state board for community colleges and occupational education to certify nurses' aides, to approve nurses' aide instructional programs, and to promulgate rules and regulations relevant to nurses' aide training and certification. Allows the required instruction to be given by public or private schools, health care providers, or other entities. Prohibits a skilled or intermediate nursing facility from reducing the pay of an employee in order to pay for nurses' aide instruction or from requiring such an employee to attend such instruction during the employee's nonwork time.

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1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. Part 1 of article 3 of title 25, Colorado  
3 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY  
4 THE ADDITION OF A NEW SECTION to read:

5 25-3-109. Nurses' aides - training - certification.

6 (1) Beginning July 1, 1989, no person shall be employed as a  
7 nurses' aide in any skilled or intermediate nursing facility  
8 unless:

9 (a) Such person has successfully completed the greater  
10 of eighty hours of instruction for nurses' aides as approved  
11 by the state board for community colleges and occupational  
12 education pursuant to section 23-60-307, C.R.S., or the  
13 minimum number of hours of such instruction required by  
14 federal regulations or statutes for certification as a nurses'  
15 aide; or

16 (b) Such person has worked in a single skilled or  
17 intermediate nursing facility prior to July 1, 1988.

18 (2) Notwithstanding the provisions of subsection (1) of  
19 this section, a person who is not certified as a nurses' aide  
20 on the date of his employment may be employed as a nurses'  
21 aide if he begins the instruction required by paragraph (a) of  
22 subsection (1) of this section within three months after his  
23 initial employment. Any such person may continue his  
24 employment as a nurses' aide beyond six months after his  
25 initial employment only if he is certified within such  
26 six-month period. Such person shall not perform any patient  
27 care duties without supervision by trained personnel until he

1 has successfully completed instruction for that patient care  
2 duty.

3 (3) The state board for community colleges and  
4 occupational education shall approve the instructional  
5 programs required by subsection (1) of this section and shall  
6 issue certificates to nurses' aides who have met the  
7 requirements of subsection (1) of this section and applied for  
8 certification. The instructional programs required by  
9 subsection (1) of this section may be given by public or  
10 private schools, health care providers, or other entities.  
11 When written language is a barrier to a nurses' aide trainee,  
12 the nurses' aide instructional program examinations shall be  
13 oral.

14 (4) No skilled or intermediate nursing facility shall  
15 require an employee who is taking an instructional program  
16 required for nurses' aides by subsection (1) of this section  
17 to take a reduction in pay in order to pay for such  
18 instructional program, nor shall such an employer require an  
19 employee to attend such an instructional program during the  
20 employee's nonwork time.

21 (5) On or after July 1, 1989, the department of health  
22 may suspend, revoke, or deny an application for a license to  
23 operate any skilled or intermediate nursing facility which  
24 violates the provisions of subsection (1) or (2) of this  
25 section.

26 (6) On or after April 1, 1989, any service or business  
27 which provides contract service employees to skilled or

1 intermediate nursing facilities shall not provide any contract  
2 service employee to any such facility to be employed as a  
3 nurses' aide unless such person has been certified as a  
4 nurses' aide pursuant to this section.

5 (7) This section is repealed, effective July 1, 1991.

6 SECTION 2. Part 3 of article 60 of title 23, Colorado  
7 Revised Statutes, as amended, is amended BY THE ADDITION OF A  
8 NEW SECTION to read:

9 23-60-307. Nurses' aide education. (1) The board shall  
10 administer and coordinate the training and certification of  
11 nurses' aides in the state, pursuant to section 25-3-109,  
12 C.R.S., including the approval of instructional programs and  
13 the issuance of nurses' aide certificates. The board shall  
14 have the authority to promulgate rules and regulations  
15 relevant to nurses' aide training and certification.

16 (2) This section is repealed, effective July 1, 1991.

17 SECTION 3. Effective date. This act shall take effect  
18 July 1, 1988.

19 SECTION 4. Safety clause. The general assembly hereby  
20 finds, determines, and declares that this act is necessary  
21 for the immediate preservation of the public peace, health,  
22 and safety.

Bill 5

Interim Committee on Long-term  
Health Care Needs

A BILL FOR AN ACT

1 CONCERNING AN EXTENSION OF THE HOURS DURING WHICH THE  
2 DEPARTMENT OF HEALTH MAY INSPECT HEALTH CARE FACILITIES.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Allows the department of health to inspect general hospitals, hospital units as defined in section 25-3-101 (2), psychiatric hospitals, community clinics, rehabilitation centers, convalescent centers, community mental health centers, facilities for the mentally retarded, habilitation centers for brain-damaged children, chiropractic centers and hospitals, maternity hospitals, nursing care facilities, intermediate care facilities, residential care facilities, the pilot project rehabilitative nursing facility, hospice care facilities for terminally ill individuals, personal care boarding homes, and other institutions of a like nature on any day of the week at any time.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 25-1-107 (1) (1) (I), Colorado Revised  
5 Statutes, 1982 Repl. Vol., as amended, is amended to read:

6 25-1-107. Powers and duties of the department.

7 (1) (1) (I) To annually license and to establish and enforce  
8 standards for the operation of general hospitals, hospital



1 units as defined in section 25-3-101 (2), psychiatric  
2 hospitals, community clinics, rehabilitation centers,  
3 convalescent centers, community mental health centers,  
4 facilities for the mentally retarded, habilitation centers for  
5 brain-damaged children, chiropractic centers and hospitals,  
6 maternity hospitals, nursing care facilities, intermediate  
7 care facilities, residential care facilities, the pilot  
8 project rehabilitative nursing facility, hospice care  
9 facilities for terminally ill individuals, personal care  
10 boarding homes, and other institutions of a like nature,  
11 except those wholly owned and operated by any governmental  
12 unit or agency. In establishing and enforcing such standards  
13 and in addition to the required announced inspections, the  
14 department shall, within available appropriations, make  
15 additional inspections without prior notice to the facility.  
16 ~~Such inspections shall be made only during the hours of 7 a.m.~~  
17 ~~to 7 p.m.~~ MAY BE MADE ON ANY DAY OF THE WEEK AT ANY TIME. The  
18 issuance, suspension, renewal, revocation, annulment, or  
19 modification of licenses shall be governed by the provisions  
20 of sections 24-4-104, C.R.S., and 25-3-102, and all licenses  
21 shall bear the date of issue and cover a twelve-month period.  
22 Nothing contained in this paragraph (1) shall be construed to  
23 prevent the department from adopting and enforcing, with  
24 respect to projects for which federal assistance has been  
25 obtained or shall be requested, such higher standards as may  
26 be required by applicable federal laws or regulations of  
27 federal agencies responsible for the administration of such

1 federal laws.

2 SECTION 2. Safety clause. The general assembly hereby  
3 finds, determines, and declares that this act is necessary  
4 for the immediate preservation of the public peace, health,  
5 and safety.

Bill 6

Interim Committee on Long-term  
Health Care Needs

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF A QUALITY CARE INCENTIVE  
2 ALLOWANCE FOR LONG-TERM HEALTH CARE PROVIDERS, AND MAKING  
3 AN APPROPRIATION THEREFOR.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes a quality care incentive allowance to be distributed to nursing care and intermediate nursing facilities which have a high level of quality care. Creates an advisory board, appointed by the speaker of the house of representatives, the president of the senate, and the governor, to develop a three-star rating system of the nursing facilities, based on survey information gathered for medicaid certification. Makes an appropriation.

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4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Article 4 of title 26, Colorado Revised  
6 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
7 ADDITION OF A NEW SECTION to read:

8 26-4-110.3. Quality care incentive allowance. (1) In  
9 order to encourage quality and efficiency in Colorado's health  
10 care system and to provide information to the public regarding

1 the quality of care furnished by providers, there is hereby  
2 established a quality care incentive allowance, which shall be  
3 distributed to those eligible long-term health care providers  
4 which furnish a high quality of care.

5 (2) (a) There is hereby created an advisory committee on  
6 quality care, referred to in this section as the "committee",  
7 to develop a three-star rating system of nursing care and  
8 intermediate nursing facilities which receive payments  
9 pursuant to this article. Such rating system shall be based  
10 on the results of the recertification surveys required for  
11 facilities to receive funds pursuant to this article. The  
12 committee shall consist of no more than nine members, two of  
13 whom shall be members of the house of representatives, one  
14 from each major party, appointed by the speaker of the house;  
15 two of whom shall be members of the senate, one from each  
16 major party, appointed by the president of the senate; one of  
17 whom shall be the state long-term care ombudsman; and four of  
18 whom shall be appointed by the governor, with one appointee  
19 representing each of the following groups: The department of  
20 health, the state department, the long-term care industry, and  
21 consumers.

22 (b) There is hereby created the quality care incentive  
23 allowance fund, which shall consist of moneys deposited  
24 thereto pursuant to section 26-4-110 (5) (c). The general  
25 assembly shall make annual appropriations from the fund to the  
26 committee to be distributed to nursing care facilities which  
27 provide high-quality long-term care. Any moneys not

1 appropriated shall remain in the fund and shall not be  
2 transferred or revert to the general fund of the state at the  
3 end of any fiscal year.

4 (c) The committee shall devise a formula for the  
5 distribution of moneys from the quality care incentive  
6 allowance fund to encourage and reward the providers of high  
7 quality long-term care. No facility which was found in the  
8 most recent medicaid recertification survey to be deficient in  
9 an entire category of standards measured for participation  
10 under federal medicaid rules shall be eligible for any quality  
11 care incentive allowance. Any facility which employs any  
12 nurses' aides who do not meet the requirements for instruction  
13 and certification of nurses' aides, if any, pursuant to part 1  
14 of article 3 of title 25, C.R.S., or in federal statute or  
15 regulation shall not be eligible to receive quality care  
16 allowance payments. The amount of an eligible facility's  
17 quality care incentive allowance shall be based only on  
18 quality categories dealing with direct patient care. The  
19 department of health shall provide the necessary survey  
20 information to the state department and the advisory  
21 committee.

22 SECTION 2. 26-4-110 (5) (c), Colorado Revised Statutes,  
23 1982 Repl. Vol., as amended, is amended to read:

24 26-4-110. Vendors - payments - rules. (5) (c) The  
25 state board shall, subject to available appropriations, adopt  
26 rules and regulations to determine and pay a reasonable share  
27 of the amount by which the reasonable costs of the categories

1 of administration, property, and room and board, excluding  
2 food costs, exceed the actual cost in these categories only of  
3 each facility. Such reasonable share shall be defined as  
4 twenty-five percent of such amount in such categories for each  
5 facility, not to exceed twelve percent of the reasonable cost.  
6 ONE-HALF OF THIS AMOUNT SHALL BE DISTRIBUTED TO THE FACILITY  
7 AND ONE-HALF SHALL BE DEPOSITED IN THE QUALITY CARE INCENTIVE  
8 ALLOWANCE FUND CREATED BY SECTION 26-4-110.3 AND DISTRIBUTED  
9 IN ACCORDANCE WITH THE PROVISIONS OF SAID SECTION.

10 SECTION 3. Appropriation. In addition to any other  
11 appropriation, there is hereby appropriated, out of any moneys  
12 in the quality care incentive allowance fund not otherwise  
13 appropriated, to the department of social services, for the  
14 fiscal year beginning July 1, 1988, the sum of \_\_\_\_\_  
15 dollars (\$ ), or so much thereof as may be necessary, for  
16 the implementation of this act.

17 SECTION 4. Safety clause. The general assembly hereby  
18 finds, determines, and declares that this act is necessary  
19 for the immediate preservation of the public peace, health,  
20 and safety.

Bill 7

Interim Committee on Long-term Health Care

A BILL FOR AN ACT

1 CONCERNING INCENTIVE PAYMENTS TO NURSING FACILITIES WHICH  
2 SUCCESSFULLY DISCHARGE MEDICAID PATIENTS, AND MAKING AN  
3 APPROPRIATION IN CONNECTION THEREWITH.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Directs the department of social services to establish a pilot program to provide incentives to nursing facilities to discharge medicaid patients. Provides that any such facility which discharges a medicaid patient who is not readmitted to a similar or higher level facility for a related disorder for a specified period shall receive a payment equal to a specified multiple of the reasonable cost per day for the discharged patient in the discharging facility. Provides that the program is eliminated after a certain date. Makes an appropriation.

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4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Article 4 of title 26, Colorado Revised  
6 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
7 ADDITION OF A NEW SECTION to read:

8 26-4-110.7. Discharge incentive - pilot project.

9 (1) The state department shall establish a discharge

1     incentive pilot program which provides an incentive for the  
2     nonpunitive-related discharge of recipients to an appropriate  
3     and safe living environment and which covers some of the costs  
4     associated with that discharge by providing a payment to a  
5     nursing care facility or an intermediate nursing facility  
6     which successfully discharges a recipient.

7           (2) Under the pilot program, any nursing care facility  
8     or intermediate nursing facility that discharges a recipient  
9     shall receive a payment equal to fifteen times the reasonable  
10    cost per day for that facility for the recipient who was  
11    discharged, but only if the recipient is not readmitted to a  
12    nursing care or an intermediate nursing facility or to a  
13    facility which provides a higher level of care for a related  
14    disorder for sixty days after discharge.

15           (3) Pursuant to article 4 of title 24, C.R.S., the state  
16    department shall adopt rules and regulations for the  
17    administration of this section.

18           (4) The state department shall contract with an agency  
19    with health services evaluation experience for evaluation of  
20    the pilot program established by this section and shall  
21    present a report of such evaluation to the general assembly  
22    not later than January 1, 1989.

23           (5) This section is repealed, effective July 1, 1989.

24           SECTION 2. Appropriation. In addition to any other  
25    appropriation, there is hereby appropriated, out of any moneys  
26    in the general fund not otherwise appropriated, to the  
27    department of social services, for the fiscal year beginning



1 July 1, 1988, the sum of ten thousand dollars (\$10,000), or so  
2 much thereof as may be necessary, for the implementation and  
3 administration of the discharge incentive pilot program  
4 established in section 26-4-110.7, Colorado Revised Statutes.

5 SECTION 3. Effective date. This act shall take effect  
6 July 1, 1988.

7 SECTION 4. Safety clause. The general assembly hereby  
8 finds, determines, and declares that this act is necessary  
9 for the immediate preservation of the public peace, health,  
10 and safety.

Bill 8

Interim Committee on Long-term Health Care Needs

A BILL FOR AN ACT

- 1 CONCERNING METHODS TO ENCOURAGE THE DEVELOPMENT OF CHILD CARE  
2 CENTERS IN NURSING HOME FACILITIES, AND MAKING AN  
3 APPROPRIATION IN CONNECTION THEREWITH.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Creates a grant program administered by the department of health to provide start-up funds to nursing home facilities to establish a child care center. Specifies that the grants shall be distributed on a first-come-first-served basis to nursing home facilities which are approved by the department of health and which have obtained matching funds. Specifies the requirements that an applicant shall meet for approval for a grant.

Requires the departments of health and social services, in conjunction with the nursing home industry, child care operators, and experts on child care in nursing home facilities, study the existing statutes and regulations on licensing child care centers and nursing home facilities to determine and report to the general assembly about statutory changes which would facilitate the operating of child care centers in nursing home facilities. Such study shall examine a program which would allow for waiver of nursing home licensure regulations and a separate licensure program for operating a child care center in a nursing home facility.

Makes an appropriation to the department of health to implement this act.

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1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. Article 1 of title 25, Colorado Revised  
3 Statutes, 1982 Repl. Vol., is amended BY THE ADDITION OF A NEW  
4 PART to read:

5

PART 10

6

CHILD CARE PROGRAMS IN

7

NURSING HOME FACILITIES

8 25-1-1001. Legislative declaration. The general  
9 assembly hereby finds that the operation of child care centers  
10 in nursing home facilities is desirable because the benefit to  
11 nursing home facility employees in having on-location child  
12 care at no cost will improve the quality of care in nursing  
13 home facilities by stabilizing the nursing home work force.  
14 The general assembly also finds that the operation of child  
15 care centers in nursing home facilities is desirable because  
16 the intergenerational contact has been proven to be beneficial  
17 to the health and well-being of elderly persons and,  
18 therefore, will improve the quality of life of elderly  
19 residents in nursing home facilities. The general assembly,  
20 therefore, declares that the intent of this part 10 is to  
21 encourage the development of child care centers in nursing  
22 home facilities by creating a grant program to provide funds  
23 to start such centers and by requiring the state agencies  
24 which license nursing home facilities and child care centers  
25 to study and recommend statutory and regulatory changes to  
26 facilitate and encourage the development of child care centers  
27 in nursing home facilities.

1           25-1-1002. Definition. As used in this part 10, unless  
2 the context otherwise requires:

3           (1) "Nursing home facility" means a facility which  
4 provides skilled nursing home services or intermediate care  
5 nursing home services.

6           25-1-1003. Grant program - requirements. (1) The  
7 department of health shall implement a grant program to  
8 provide start-up funds to nursing home facilities for the  
9 purpose of establishing child care centers located in such  
10 nursing home facilities. The grants shall be distributed on a  
11 first-come-first-served basis to nursing home facilities which  
12 are approved by said department. Each grant awarded shall be  
13 ten thousand dollars or less, and, as a condition of receiving  
14 such grant, an applicant shall submit proof that it has  
15 obtained matching funds for the purpose of implementing the  
16 child care center.

17           (2) The state board of health, after consultation with  
18 the division in the department of social services involved in  
19 licensing child care centers, shall promulgate reasonable  
20 rules and regulations establishing the requirements for  
21 obtaining a grant pursuant to this section. Such rules and  
22 regulations shall include, but need not be limited to, the  
23 following requirements:

24           (a) The applicant shall demonstrate the ability to  
25 operate a safe and good-quality child care operation in the  
26 nursing home facility or upon the nursing home facility's  
27 grounds.

1           (b) The applicant shall demonstrate the ability to  
2 properly care for the children.

3           (c) The applicant shall meet certain standards, as  
4 established by the state board of health, on the quality of  
5 care provided to nursing home residents.

6           (d) The applicant shall demonstrate that the child care  
7 program and the actual facility in which the child care center  
8 is located will conform to necessary rules and regulations  
9 required by law, including such things as the child care ratio  
10 of staff to children and life safety and fire regulations.

11          (e) The applicant shall submit proof that the nursing  
12 home facility will be able to obtain affordable liability  
13 insurance to insure the risks associated with the child care  
14 operation.

15          (f) The applicant shall submit a plan which describes  
16 the program, the ways in which the nursing home residents will  
17 be involved in the child care center, and the ways in which  
18 nursing home residents can voluntarily participate in  
19 intergenerational activities with the children in the child  
20 care operation.

21          (g) The applicant shall agree that any children of  
22 employees of the nursing home facility who are accepted in the  
23 child care program will be accepted free of charge.

24          25-1-1004. Study of statutes and rules and regulations  
25 pertaining to nursing home facilities and day care centers.

26          (1) The department of health and the department of social  
27 services, in conjunction with representatives of the nursing

1 home industry, child care operators, and experts on child care  
2 programs in nursing home facilities, shall examine and study  
3 the existing statutes and rules and regulations concerning the  
4 licensing of child care centers and of nursing home facilities  
5 to determine what statutory or regulatory changes or both  
6 would make it easier for a nursing home facility to operate a  
7 child care center.

8 (2) The study conducted by the department of health and  
9 the department of social services shall include, but need not  
10 be limited to, an examination of the following:

11 (a) A waiver program which would allow for the waiver of  
12 certain licensing requirements of the department of health for  
13 nursing home facilities which meet a certain level of quality  
14 in serving nursing home residents and which demonstrate that  
15 the facility would be able to provide a safe and good-quality  
16 child care operation that would be beneficial to the nursing  
17 home residents;

18 (b) A separate licensure program to license a child care  
19 operation in a nursing home facility which would be based on  
20 rules and regulations designed specifically for the operation  
21 of a child care center in a nursing home facility.

22 (3) The department of health and the department of  
23 social services shall report on the results of such study and  
24 make recommendations to the general assembly about the most  
25 appropriate methods for facilitating the development and  
26 operation of child care programs in nursing home facilities on  
27 or before January 1, 1989.

1       SECTION 2. Appropriation. In addition to any other  
2       appropriation, there is hereby appropriated, out of any moneys  
3       in the general fund not otherwise appropriated, to the  
4       department of health, for the fiscal year beginning July 1,  
5       1988, the sum of one hundred thousand dollars (\$100,000), or  
6       so much thereof as may be necessary, for the implementation of  
7       this act.

8       SECTION 3. Safety clause. The general assembly hereby  
9       finds, determines, and declares that this act is necessary  
10      for the immediate preservation of the public peace, health,  
11      and safety.

Bill 9

Interim Committee on  
Long-term Health Care Needs

A BILL FOR AN ACT

- 1 CONCERNING THE INSPECTION OF X-RAY PRODUCING MACHINES, AND  
2 MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the state board of health to promulgate rules and regulations establishing standards for x-ray producing machines, the qualifications of persons authorized to inspect and certify such machines, and the procedures for an annual inspection for all types of x-ray producing machines. Sets forth certain procedures for the inspections.

Requires annual inspections of x-ray producing machines to be made by qualified inspectors approved by the department; except that the department may make or contract for audit inspections to assure compliance with the specifications.

Declares that the setting of minimum specifications for x-ray producing machines and standards for approval of inspectors is a matter of statewide concern.

Creates a misdemeanor for knowingly using any machine which is a source of ionizing radiation which is not certified as provided in this act. Provides for disciplinary action against any qualified inspector who incorrectly certifies an x-ray producing machine as meeting the standards.

Changes the name of the radioactive materials control fund to the radiation control fund. Authorizes the collection of a fee for the approval of persons to be inspectors and for a certification or noncertification sticker affixed to the x-ray producing machine after inspection. Makes an appropriation to the department of health to implement this act.



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1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. 25-11-104 (6) (c), Colorado Revised Statutes,  
3 1982 Repl. Vol., as amended, is amended, and the said  
4 25-11-104 is further amended BY THE ADDITION OF A NEW  
5 SUBSECTION, to read:

6 25-11-104. Rules and regulations to be adopted - fees -  
7 fund created. (6) (c) All fees collected pursuant to this  
8 subsection (6) shall be transmitted to the state treasurer who  
9 shall credit the same to the ~~radioactive--materials~~ RADIATION  
10 control fund, which fund is hereby created. Moneys credited  
11 to said fund, in amounts determined annually by the general  
12 assembly by appropriation, shall be expended for radiation  
13 control services as provided in this subsection (6).

14 (8) (a) The state board of health shall adopt rules and  
15 regulations requiring that all machine sources of ionizing  
16 radiation which are used for therapeutic or diagnostic use on  
17 humans be annually inspected and certified by qualified  
18 inspectors as safe for the intended uses and in compliance  
19 with the specifications of the state board of health and the  
20 equipment manufacturer. Such rules shall include the  
21 following:

22 (I) The establishment of minimum specifications that  
23 each type of machine which is a source of ionizing radiation  
24 shall meet. Such specifications shall include compliance with  
25 the manufacturer's specifications and any additional  
26 specifications of the state board of health which are

1 necessary to determine that the machine is safe for its  
2 designed and intended use.

3 (II) The establishment of minimum standards for the  
4 qualification of individuals who are authorized to make  
5 inspections and to certify machines which are sources of  
6 ionizing radiation. Other than those individuals performing  
7 emergency inspections or inspection audits for the department,  
8 qualified inspectors shall not be employees of the department.  
9 The maximum fee which may be charged by the department to an  
10 individual seeking approval as a qualified inspector is fifty  
11 dollars. Such fee shall include the issuance of evidence of  
12 qualification, if applicable, and all other costs for  
13 qualifications. The maximum fee for annual renewal shall be  
14 twenty-five dollars. Such fees shall be credited to the  
15 radiation control fund.

16 (III) The establishment of procedures for the making of  
17 annual inspections for all types of machines which are sources  
18 of ionizing radiation. The procedures shall require that such  
19 machines be inspected only by a qualified inspector who shall  
20 record on a form provided by the department whether or not a  
21 machine being inspected meets the specifications of the  
22 manufacturer and the state board of health, and shall indicate  
23 the type of machine, the applicable specifications, and the  
24 machine specifications. If a machine meets the required  
25 specifications, a qualified inspector shall affix on the  
26 machine an official sticker issued by the department. If the  
27 machine fails to meet the required specifications, the

1 qualified inspector shall notify the owner or operator  
2 immediately and shall so notify the department within three  
3 days. A machine which fails to meet the required  
4 specifications shall not be used thereafter for human use  
5 until subsequent certification, and the qualified inspector  
6 shall affix an official noncertification sticker issued by the  
7 department indicating such machine is not authorized for human  
8 use. A certification or noncertification sticker shall be  
9 affixed on each machine in a location conspicuous to machine  
10 operators and persons on whom the machine is used. A fee of  
11 ten dollars shall be charged for each certification or  
12 noncertification sticker issued by the department. Such fee  
13 shall be credited to the radiation control fund.

14 (b) The department may make or contract for the making  
15 of audit inspections of machines which are sources of ionizing  
16 radiation to assure compliance with applicable specifications.  
17 Such audit inspections shall be made by a qualified inspector  
18 on machines which are currently certified by a qualified  
19 inspector. Audit inspections shall be conducted on only a  
20 portion of all certified machines and shall be made on a  
21 routine, unannounced basis. The cost of the audit inspections  
22 shall be paid for out of the radiation control fund.

23 (c) In establishing or revising specifications for each  
24 type of machine which is a source of ionizing radiation, the  
25 standards for approval of qualified inspectors, and the  
26 procedures for making inspections, the department shall  
27 consult with manufacturers of ionizing radiation equipment,

1 health care providers and operators who use such equipment in  
2 diagnostic and therapeutic treatment of humans, and qualified  
3 inspectors and individuals.

4 (d) The general assembly hereby finds that the setting  
5 of minimum specifications for machines which are sources of  
6 ionizing radiation and the establishment of minimum standards  
7 for qualified inspectors for such machines is a matter of  
8 statewide concern. Therefore, no other state agency,  
9 political subdivision, or local government shall establish any  
10 other specifications for sources of ionizing radiation or  
11 standards for inspectors of such equipment, or impose any fees  
12 therefor.

13 SECTION 2. 25-11-107 (3), Colorado Revised Statutes,  
14 1982 Repl. Vol., is amended, and the said 25-11-107, as  
15 amended, is further amended BY THE ADDITION OF THE FOLLOWING  
16 NEW SUBSECTIONS, to read:

17 25-11-107. Prohibited acts - violations - penalties.

18 (2.5) No person shall knowingly use any machine which is a  
19 source of ionizing radiation which is not certified as  
20 provided in section 25-11-104 (8).

21 (3) Any person who violates the provisions of  
22 ~~subsections~~ SUBSECTION (1), and (2), OR (2.5) of this section  
23 is guilty of a misdemeanor and, upon conviction thereof, shall  
24 be punished by a fine of not less than one hundred dollars nor  
25 more than five hundred dollars, or by imprisonment in the  
26 county jail for not less than thirty days nor more than ninety  
27 days, or by both such fine and imprisonment.

1           (6) Any qualified inspector who incorrectly certifies a  
2 machine which is a source of ionizing radiation as meeting the  
3 applicable specifications as required in section 25-11-104 (8)  
4 shall be subject to disciplinary provisions in accordance with  
5 section 24-4-104, C.R.S.

6           SECTION 3. Appropriation. In addition to any other  
7 appropriation, there is hereby appropriated, out of any moneys  
8 in the radiation control fund not otherwise appropriated, to  
9 the department of health, for the fiscal year beginning July  
10 1, 1988, the sum of \_\_\_\_\_ dollars (\$       ), or so much  
11 thereof as may be necessary, for the implementation of this  
12 act.

13          SECTION 4. Effective date. This act shall take effect  
14 July 1, 1988.

15          SECTION 5. Safety clause. The general assembly hereby  
16 finds, determines, and declares that this act is necessary  
17 for the immediate preservation of the public peace, health,  
18 and safety.

Bill 10

Interim Committee on Long-term Health Care Needs  
BY SENATOR Hopper

A BILL FOR AN ACT

1 CONCERNING THE REPEAL OF PROVISIONS WHICH PROHIBIT THE DIRECT  
2 ACCESS OF THE PUBLIC TO PHYSICAL THERAPISTS.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Allows the public to have direct access to a physical therapist for treatment by repealing a statute which prohibits a physical therapist from treating a patient without first obtaining a prescription or referral of a physician, dentist, or podiatrist. Repeals the definition of "prescription".

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Repeal. 12-41-102 (5) and 12-41-104 (1) (c),  
5 Colorado Revised Statutes, 1985 Repl. Vol., as amended, are  
6 repealed.

7 SECTION 2. Safety clause. The general assembly hereby  
8 finds, determines, and declares that this act is necessary  
9 for the immediate preservation of the public peace, health,  
10 and safety.

Bill 11

Interim Committee on Long-term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING MEDICAL ASSISTANCE FOR THE PURPOSE OF PAYING THE  
2 COSTS OF NURSING HOME OR MEDICAL CARE.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

In determining eligibility for nursing home care under the medical assistance program, allows only the applicant's share of his and his spouse's total nonexempt resources and income to be considered. Establishes a presumption that such applicant has a one-half share in such resources and income. Establishes standards by which an applicant or spouse may rebut such a presumption. Requires the department of social services to establish standards for support of an applicant's spouse and residence. Gives the department of social services an enforceable right against certain spouses of recipients for the cost of medical assistance furnished to the recipient spouse.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Article 4 of title 26, Colorado Revised  
5 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
6 ADDITION OF A NEW SECTION to read:

7 26-4-107.5. Eligibility of married applicants for  
8 medical assistance for nursing home care. (1) The general  
9 assembly hereby finds and declares that the standards used in

1 determining the eligibility of a married applicant for medical  
2 assistance often leave the spouse of the applicant with little  
3 income or resources. Therefore, it is the intent of the  
4 general assembly in enacting this section to protect a portion  
5 of the joint income and resources of a married couple when one  
6 spouse is institutionalized in a facility providing nursing  
7 home care, and they must apply for medical assistance to pay  
8 the cost of care in such a facility.

9 (2) When determining the eligibility of a married person  
10 who applies for medical assistance for the purpose of paying  
11 the cost of skilled nursing care services, intermediate care  
12 services, or any other type of nursing home care, the only  
13 portion of the nonexempt resources owned jointly by the  
14 applicant and his spouse which shall be considered available  
15 to the applicant shall be the applicant's interest in such  
16 resources. For the purposes of this subsection (2), there  
17 shall be a rebuttable presumption that each spouse has a  
18 one-half interest in such resources.

19 (3) When determining the eligibility of a married person  
20 who applies for medical assistance for the purpose of paying  
21 the cost of skilled nursing care services, intermediate care  
22 services, or any other type of nursing home care, the only  
23 portion of the income received by both the applicant and his  
24 spouse which shall be considered available to the applicant  
25 shall be the applicant's interest in such resources. For the  
26 purposes of this subsection (3), there shall be a rebuttable  
27 presumption that each spouse has a property interest in



1 one-half of the total monthly income of both spouses at the  
2 time of application for medical assistance.

3 (4) The presumption regarding the property interest of  
4 the applicant's spouse in the income or resources of both  
5 spouses may be rebutted by the applicant or his spouse only  
6 upon a showing of one of the following:

7 (a) A court order allocating income or resources  
8 pursuant to alimony, maintenance, spousal support, equitable  
9 division of marital property, or disposition of property;

10 (b) The establishment of sole individual interest in  
11 income resulting from current active employment; or

12 (c) A determination by the state department granting a  
13 supplementary allocation of spousal income or resources  
14 pursuant to subsection (5) of this section.

15 (5) The state department shall establish standards for  
16 the reasonable and adequate support of the nonapplicant spouse  
17 and the residence of the couple. The standards shall consider  
18 the cost of housing payments, property taxes, property  
19 insurance, utilities, food, medical expenses, transportation,  
20 and other personal necessities and the presence of other  
21 dependent persons in the home. The applicant spouse may apply  
22 to the state department for a determination, pursuant to said  
23 standards, that the nonapplicant spouse requires a larger  
24 portion of the applicant spouse's income or resources and that  
25 a smaller portion of the applicant spouse's income or  
26 resources will be considered available to the applicant spouse  
27 in determining eligibility for medical assistance.

1           (6) (a) With respect to married couples whose joint  
2   income exceeds six hundred percent of the monthly supplemental  
3   security income benefit rate established by 42 U.S.C. section  
4   1382 (b) (1), the state department shall have an enforceable  
5   right against the nonrecipient spouse for the amount of any  
6   medical assistance furnished the applicant spouse pursuant to  
7   this article.

8           (b) Upon the death of a nonrecipient spouse, the state  
9   department shall have an enforceable right against the estate  
10   of said nonrecipient spouse for the cost of medical care  
11   rendered to the recipient spouse under this article.

12          SECTION 2. Safety clause. The general assembly hereby  
13   finds, determines, and declares that this act is necessary  
14   for the immediate preservation of the public peace, health,  
15   and safety.

Proposal for Interim Committee  
on Long-term Health Care Needs

JOINT RESOLUTION NO. 1

1 WHEREAS, National demographic projects suggest  
2 significant future increases in life expectancy and a large  
3 increase in the number of elderly as a percentage of the  
4 population; and

5 WHEREAS, The incidence of chronic illness and the rate of  
6 long-term health care utilization increases with age and  
7 becomes a major cause of disability requiring medical care;  
8 and

9 WHEREAS, The impact of the aging of the population from  
10 1988 through the year 2000 on the health care system of the  
11 United States is projected to significantly increase the days  
12 of hospital care required, the total number of physician  
13 visits required, and the number of nursing home residents; and

14 WHEREAS, Expenditures on nursing homes have increased  
15 dramatically over the past decade, and nearly one-half of  
16 these costs are now borne by the states and the federal  
17 government, almost entirely through Medicaid; and

18 WHEREAS, With government programs under increased  
19 pressure, increased attention should be focused on the role of  
20 alternative long-term health care financing programs; and

21 WHEREAS, Individual medical accounts are trusts created  
22 or organized to pay the eligible medical, dental, and  
23 long-term care expenses of the account holders; and

24 WHEREAS, Federal incentives would encourage individuals  
25 to save money to pay for their own medical, dental, and  
26 long-term care expenses and thereby relieve state and federal  
27 taxpayers of a portion of the cost they pay for society's  
28 medical, dental, and long-term care; now, therefore,

29 Be It Resolved by the House of Representatives of the  
30 Fifty-sixth General Assembly of the State of Colorado, the  
31 Senate concurring herein:

1       That, as an incentive to encourage individuals to plan  
2       for their future and to pay for their own health care needs,  
3       the Congress of the United States is urged to enact  
4       legislation providing a federal income tax deduction for money  
5       deposited into an individual medical account.

6       Be It Further Resolved, That each member of Congress from  
7       the State of Colorado give full support to such legislation.

8       Be It Further Resolved, That copies of this Resolution be  
9       sent to the President of the United States, to the President  
10      of the Senate and Speaker of the House of Representatives of  
11      the Congress of the United States, to the chairman of the  
12      Senate Committee on Finance and the chairman of the House  
13      Committee on Ways and Means, and to each member of Congress  
14      from the State of Colorado.

Interim Committee on  
Long-Term Health Care Needs

JOINT RESOLUTION NO. 2

1 WHEREAS, Financing long-term health care is a significant  
2 policy problem that will become more severe as life expectancy  
3 and the number of elderly as a percentage of the population  
4 increases; and

5 WHEREAS, The impact of the aging of the population is  
6 projected to significantly increase the number of nursing home  
7 residents; and

8 WHEREAS, Expenditures on nursing homes have increased  
9 dramatically over the past decade, and nearly one-half of  
10 these costs are now borne by the states and the federal  
11 government, almost entirely through Medicaid; and

12 WHEREAS, National studies suggest that the increased use  
13 of long-term health care insurance could reduce Medicaid  
14 costs; and

15 WHEREAS, Federal incentives would encourage individuals  
16 to take responsibility for their own finances and pay their  
17 own long-term care expenses; and

18 WHEREAS, Long-term health care insurance coverage  
19 includes benefits for necessary diagnostic, preventive,  
20 therapeutic, rehabilitative, or custodial services rendered in  
21 or by a duly licensed nursing care facility, intermediate  
22 nursing facility, or home health agency; now therefore,

23 Be It Resolved by the House of Representatives of the  
24 Fifty-sixth General Assembly of the State of Colorado, the  
25 Senate concurring herein:

26 (1) That, as an incentive for individuals to purchase  
27 long-term health care insurance, in order to pay for their own  
28 health care needs and to possibly reduce future government  
29 costs for nursing home care, the Congress of the United States  
30 is urged to enact legislation to specifically provide  
31 individuals an income tax deduction for long-term health care  
32 insurance premiums from federal taxable income or to allow

1 long-term health care insurance premiums to be included as a  
2 medical expense for federal income tax purposes and to lower  
3 the current 7.5 percent federal threshold for medical expense  
4 deductions from adjusted gross income.

5 (2) That each member of Congress from the State of  
6 Colorado is urged to give full support to such legislation.

7 Be It Further Resolved, That copies of this Resolution be  
8 sent to the President of the United States, to the President  
9 of the Senate and Speaker of the House of Representatives of  
10 the Congress of the United States, to the chairman of the  
11 Senate Committee on Finance and the chairman of the House  
12 Committee on Ways and Means, and to each member of Congress  
13 from the State of Colorado.

Bill 12

Interim Committee on Long-Term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING DISABLED ADULTS IN NEED OF PROTECTIVE SERVICES, AND  
2 PROVIDING FOR THE DISCOVERY, INVESTIGATION, AND TREATMENT  
3 THEREOF, AND MAKING AN APPROPRIATION IN CONNECTION  
4 THEREWITH.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Expands the availability of protective services to disabled adults in need thereof. Modifies and expands definitional terms. Limits protective services to those services constituting the least restrictive intervention necessary to remedy the situation. Urges anyone who has knowledge or reasonable basis to believe that a disabled adult is in need of protective services to report such information to a county department of social services. Requires a county department to assess need in each reported case; to prepare a plan for provision of protective services; to take action to supply necessary protection; and to notify licensing authorities of any hospital or care facility of all instances of abuse of a disabled adult occurring at such a facility. Requires the department of social services, in conjunction with county departments, to compile statistical information.

Authorizes the state department to promulgate appropriate rules and regulations.

Makes an appropriation.

---

1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. Article 3.1 of title 26, Colorado Revised  
3 Statutes, 1982 Repl. Vol., as amended is REPEALED AND  
4 REENACTED, WITH AMENDMENTS, to read:

5 ARTICLE 3.1

6 Disabled Adults in Need of Protective Services

7 26-3.1-101. Definitions. As used in this article,  
8 unless the context otherwise requires:

9 (1) "Abuse" means the unreasonable confinement or  
10 intimidation of, or the infliction of physical pain or injury  
11 upon, including the causing of involuntary sexual relations  
12 upon, a disabled adult; and "abuse" also means the failure of  
13 such disabled adult's caretaker to reasonably prevent the  
14 same.

15 (2) "Caretaker" means an individual, facility, or other  
16 entity which has responsibility, as the result of a family  
17 relationship or a legal relationship, or which has assumed  
18 responsibility for the care of a disabled adult.

19 (3) "Disabled adult" means a person eighteen years of  
20 age or older who is physically or mentally disabled to the  
21 extent that he cannot prevent the abuse, neglect, or  
22 exploitation of himself and has no one else to act on his  
23 behalf.

24 (4) "Exploitation" means the illegal or improper use of  
25 a disabled adult or his resources for another person's profit  
26 or advantage.

27 (5) "Facility" means any hospital, nursing facility,



1 personal care boarding home, residential facility, or other  
2 entity required to be licensed or certified by the state of  
3 Colorado.

4 (6) "Lacks capacity to consent" means, in reference to a  
5 disabled adult, that he lacks sufficient understanding or  
6 capacity to make or communicate responsible decisions  
7 concerning his person or property because of a physical or  
8 mental incapacity.

9 (7) "Least restrictive intervention" means the acquiring  
10 or providing of services, including protective services, for  
11 the shortest duration and in the least quantity necessary to  
12 remedy situations of actual or potential abuse, neglect, or  
13 exploitation.

14 (8) "Neglect" means an act or failure to act whereby a  
15 disabled adult is placed in imminent danger because such adult  
16 or his caretaker is unable to secure, or has not provided,  
17 those services which are necessary to maintain the health of  
18 such adult.

19 (9) "Protective services" means the acceptance of  
20 reports, the investigation of reports, the assessment of the  
21 need for services, the development of service plans, and the  
22 arrangement for such services as may be appropriate and  
23 available.

24 26-3.1-102. Action upon receipt of report. The county  
25 department shall initiate an assessment of each reported case  
26 of abuse, neglect, or exploitation of a disabled adult. In  
27 instances where the circumstances surrounding a report

1 indicate that said adult is actually, or likely to be, in a  
2 dangerous or life-threatening situation, the county department  
3 shall initiate an assessment on the day that the case is  
4 reported. In other instances, the county department shall  
5 initiate an assessment within three working days. All  
6 assessments shall be documented and kept on file in the county  
7 department.

8 26-3.1-103. Provision of protective services with  
9 consent. (1) If, after assessment, the county department  
10 determines that a disabled adult is being abused, neglected,  
11 or exploited or that there is an imminent risk of the same and  
12 if such an adult consents to the provision of protective  
13 services, the county department shall provide or arrange for  
14 the provision of protective services.

15 (2) The county department shall prepare a service plan  
16 for a disabled adult which coordinates services with other  
17 public or private agencies which may provide needed services.  
18 If the disabled adult is an identified client of another state  
19 agency, services shall be coordinated in conjunction with said  
20 agency. For the purposes of this section, a "service plan" is  
21 a detailed outline describing those services to be provided to  
22 meet the needs of a disabled adult.

23 26-3.1-104. Provision of protective services without  
24 consent. Except as provided in section 26-3.1-109, if a  
25 disabled adult who is being abused, neglected, or exploited  
26 does not consent to the provision of protective services and  
27 the county department reasonably determines that such adult

1 lacks capacity to consent, is a danger to himself or others,  
2 or is in imminent danger of irreparable harm or death and that  
3 there is no one else willing or competent to provide services  
4 or to petition the court, the county department shall petition  
5 the court pursuant to part 3 of article 14 of title 15,  
6 C.R.S., for an order authorizing the provision of specific  
7 protective services and for the appointment of a guardian; for  
8 an order authorizing the appointment of a conservator pursuant  
9 to part 4 of article 14 of title 15, C.R.S.; for a  
10 seventy-two-hour treatment and evaluation pursuant to section  
11 27-10-105, C.R.S.; or for a court order providing for any  
12 combination of these actions.

13 26-3.1-105. Abuse in a facility or by the facility  
14 staff. When the county department finds a case of abuse,  
15 neglect, or exploitation perpetrated upon a disabled adult  
16 within a facility or by the facility staff, the county  
17 department shall report the same to the facility's funding,  
18 licensing, and certifying agencies.

19 26-3.1-106. Report - contents - immunity. (1) (a) The  
20 following persons are urged to make or initiate a report of  
21 known or suspected abuse, neglect, or exploitation of a  
22 disabled adult:

- 23 (I) Physicians, surgeons, and osteopaths, including  
24 physicians in training;  
25 (II) Medical examiners and coroners;  
26 (III) Optometrists;  
27 (IV) Chiropractors;

1           (V) Podiatrists;  
2           (VI) Registered nurses and licensed practical nurses;  
3           (VII) Hospital and nursing home personnel engaged in the  
4 admission, care, or treatment of patients;  
5           (VIII) Christian science practitioners;  
6           (IX) Physical therapists;  
7           (X) Psychologists and other mental health professionals;  
8           (XI) Social work practitioners;  
9           (XII) Dentists;  
10          (XIII) Law enforcement officials;  
11          (XIV) Attorneys;  
12          (XV) Fire protection personnel;  
13          (XVI) Clergy;  
14          (XVII) Homemakers; and  
15          (XVIII) Personal care providers.

16          (b) If any other person observes or has reasonable cause  
17 to know or suspect that a disabled adult is or has been  
18 subjected to abuse, neglect, or exploitation or is subject to  
19 circumstances or conditions which would reasonably result in  
20 such abuse, neglect, or exploitation or that such an adult  
21 constitutes a danger to himself or is believed to be  
22 endangering the health and safety of others, such person is  
23 also urged to report immediately or cause a report to be made  
24 to the county department.

25          (2) The report shall include: The name and address of  
26 the disabled adult; the name and address of his caretaker, if  
27 any; the age, if known, of such an adult; the nature and

1 extent of such an adult's injury or other condition resulting  
2 from abuse, neglect, or exploitation; and any other pertinent  
3 information.

4 (3) Anyone who makes a report pursuant to this section  
5 shall be immune from any civil or criminal liability on  
6 account of such report or testimony if such person acted in  
7 good faith and without malice in making such report.

8 26-3.1-107. County coordinating task force. (1) Each  
9 county department is urged to establish a coordinating task  
10 force consisting of representatives in the areas of health,  
11 social services, mental health, developmental disabilities,  
12 law enforcement, the judiciary, and other public and private  
13 agencies having some responsibility or capacity for providing  
14 services to adults in need of protective services. Any county  
15 department may establish a coordinating task force either  
16 alone or in conjunction with any neighboring county or  
17 counties.

18 (2) The role of the task force shall include encouraging  
19 cooperation among participating agencies, case consultation,  
20 and educating the public on the issues of adult protection.

21 26-3.1-108. Responsibilities of the state department and  
22 the county departments. (1) The several county departments  
23 shall maintain case records and shall gather statistical  
24 information as required by the state department pursuant to  
25 subsection (2) of this section.

26 (2) The state department shall compile statistics  
27 obtained from the several county departments, which shall

1 include: The number of cases of disabled adults in need of  
2 protective services reported for assessment, categorized by  
3 age and sex; the number of substantiated cases, categorized by  
4 type; the number of unsubstantiated cases; the number of cases  
5 in which disabled adults in need of protective services  
6 voluntarily accepted services; the number of cases in which a  
7 county department petitioned a court for guardianship or for a  
8 protective order.

9 (3) The state department shall prepare a written report  
10 semiannually of the statistics gathered pursuant to subsection  
11 (2) of this section and shall make said report available upon  
12 request.

13 (4) The state department shall provide training and  
14 technical assistance to county departments.

15 26-3.1-109. Limitation. Nothing in this article shall  
16 be construed to mean that a person is abused, neglected,  
17 exploited, or in need of protective services for the sole  
18 reason that he is being furnished or relies upon treatment by  
19 spiritual means through prayer alone in accordance with the  
20 tenets and practices of a recognized church or religious  
21 denomination, nor shall anything in this article be construed  
22 to authorize, permit, or require any medical care or treatment  
23 in contravention of the stated or implied objection of a  
24 person being furnished or relying upon such treatment.

25 26-3.1-110. Least restrictive intervention required.  
26 Any protective services provided pursuant to this article  
27 shall include only those services constituting the least

1 restrictive intervention.

2       26-3.1-111. Rules and regulations. The state board  
3 shall promulgate appropriate rules and regulations for the  
4 implementation of this article.

5       SECTION 2. Appropriation. In addition to any other  
6 appropriation, there is hereby appropriated, out of any moneys  
7 in the general fund not otherwise appropriated, to the  
8 department of social services, for the fiscal year beginning  
9 July 1, 1988, the sum of \_\_\_\_\_ (\$     ), or so much  
10 thereof as may be necessary, for the implementation of this  
11 act.

12       SECTION 3. Effective date. This act shall take effect  
13 October 1, 1988.

14       SECTION 4. Safety clause. The general assembly hereby  
15 finds, determines, and declares that this act is necessary  
16 for the immediate preservation of the public peace, health,  
17 and safety.

Bill 13

Interim Committee on  
Long-term Health Care Needs

A BILL FOR AN ACT

- 1 CONCERNING THE DEVELOPMENT OF A SPECIALIZED TRAINING PROGRAM  
2 ON DEMENTING ILLNESSES INCLUDING ALZHEIMER'S DISEASE, AND  
3 MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Directs the department of social services to contract with a provider knowledgeable in the diagnosis, treatment, and care of persons with Alzheimer's disease and other similar dementing illnesses to provide specialized training to designated personnel who will train family members about the disease or illness and, when appropriate, in care-giving to the patient. Authorizes the department of social services to take applications for training from public and private agencies, with an emphasis on training personnel located in the rural areas of the state.

Makes an appropriation to the department of social services to implement the act.

- 
- 4 Be it enacted by the General Assembly of the State of Colorado:  
5 SECTION 1. Article 1 of title 26, Colorado Revised  
6 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
7 ADDITION OF A NEW SECTION to read:  
8 26-1-129. Training of personnel on Alzheimer's disease



1   and other dementing illnesses.   The state department shall  
2   contract with a provider experienced and knowledgeable in the  
3   diagnosis, treatment, and care of persons with Alzheimer's  
4   disease and other similar dementing illnesses to provide  
5   special training to designated personnel of public or private  
6   agencies. The designated personnel shall be trained to  
7   provide basic information and guidance to family members of a  
8   person with Alzheimer's disease or another similar dementing  
9   illness and, when appropriate, to provide training to family  
10   members in order to enable them to serve as care-givers. The  
11   state department, subject to available appropriations, shall  
12   accept applications from any public or private agency which  
13   demonstrates the capacity to utilize the training on  
14   Alzheimer's disease and other dementing illnesses on a  
15   permanent basis. The state department shall provide such  
16   training, whenever possible, to personnel located in the rural  
17   areas of the state.

18       SECTION 2. Appropriation.   In addition to any other  
19   appropriation, there is hereby appropriated, out of any moneys  
20   in the general fund not otherwise appropriated, to the  
21   department of social services, for the fiscal year beginning  
22   July 1, 1988, the sum of twelve thousand dollars (\$12,000), or  
23   so much thereof as may be necessary, for the implementation of  
24   this act.

25       SECTION 3. Effective date.   This act shall take effect  
26   July 1, 1988.

27       SECTION 4. Safety clause.   The general assembly hereby

1 finds, determines, and declares that this act is necessary  
2 for the immediate preservation of the public peace, health,  
3 and safety.

Bill 14

Interim Committee on Long-term  
Health Care Needs

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF AN ALZHEIMER'S DISEASE RESPITE  
2 CARE PILOT PROGRAM, AND MAKING AN APPROPRIATION IN  
3 CONNECTION THEREWITH.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes a pilot program to provide respite care for persons afflicted by Alzheimer's disease and to evaluate several issues associated with Alzheimer's disease respite care. Designates the department of social services to establish and administer the program. Authorizes the acceptance of grants or donations to pay for some or all of the pilot program.

Makes an appropriation to the department of social services.

---

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Part 2 of article 4.5 of title 26, Colorado  
6 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY  
7 THE ADDITION OF A NEW SECTION to read:

8 26-4.5-213. Pilot program for Alzheimer's disease  
9 respite care - creation - repeal. (1) The general assembly

1 hereby finds and declares that a pilot program shall be  
2 established by the state department to provide respite care  
3 services for persons afflicted by Alzheimer's disease.

4 (2) Under such a pilot program, projects shall be  
5 developed to encourage different models of respite care  
6 appropriate for metropolitan, suburban, and rural settings.  
7 The program shall also include an evaluation component to  
8 determine what aspects of respite care are best suited for  
9 enabling the family members of a person afflicted with  
10 Alzheimer's disease to act as care providers, to identify what  
11 services are appropriate during the different stages of  
12 Alzheimer's disease, and to develop a data base for further  
13 study of Alzheimer's disease care.

14 (3) Pursuant to article 4 of title 24, C.R.S., the state  
15 department shall adopt rules and regulations for the  
16 administration of this section.

17 (4) The state department may designate any county  
18 department to act for it in performing the duties assigned to  
19 the state department by this section.

20 (5) The state department shall contract with an agency  
21 having health services evaluation experience for evaluation of  
22 the pilot program and shall present a report based on such  
23 evaluation to the general assembly not later than January 1,  
24 1990.

25 (6) The state department is authorized to receive  
26 contributions, grants, services, and in-kind donations from  
27 private sources and may use such donations to pay for some or

1 all of direct and indirect costs of the pilot program.

2 (7) This section is repealed, effective July 1, 1990.

3 SECTION 2. Appropriation. In addition to any other  
4 appropriation, there is hereby appropriated, out of any moneys  
5 in the general fund not otherwise appropriated, to the  
6 department of social services, for the fiscal year beginning  
7 July 1, 1988, the sum of two hundred thousand dollars  
8 (\$200,000), or so much thereof as may be necessary, for the  
9 implementation of this act.

10 SECTION 3. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary  
12 for the immediate preservation of the public peace, health,  
13 and safety.

Bill 15

Interim Committee on Long-term Health Care Needs  
BY REPRESENTATIVE Knox

A BILL FOR AN ACT

1 CONCERNING THE REQUIREMENTS FOR POLICIES OF LONG-TERM CARE  
2 INSURANCE.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

States that policies of long-term care insurance which cover Alzheimer's disease, senile dementia, other organic brain syndromes, or other types of senility diseases shall not require the prior hospitalization or nursing home institutionalization of the insured in order to receive coverage for home health care.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 10-19-103, Colorado Revised Statutes, 1987  
5 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
6 read:

7 10-19-103. Form and content of policy. (3) Those  
8 policies of insurance for long-term care which cover  
9 Alzheimer's disease, senile dementia, other organic brain  
10 syndromes, or other types of senility diseases shall not  
11 require the hospitalization or nursing home

1 institutionalization or both of the insured prior to home  
2 health care in order for the insured to receive coverage for  
3 home health care.

4 SECTION 2. Effective date - applicability. This act  
5 shall take effect July 1, 1988, and shall apply to policies of  
6 insurance issued or renewed on or after such date.

7 SECTION 3. Safety clause. The general assembly hereby  
8 finds, determines, and declares that this act is necessary  
9 for the immediate preservation of the public peace, health,  
10 and safety.

Bill 16

Interim Committee on  
Long-term Health Care

A BILL FOR AN ACT

1 CONCERNING THE RIGHT OF PERSONS TO REJECT NOURISHMENT THROUGH  
2 MEDICAL PROCEDURE OR INTERVENTION.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Amends the "Colorado Medical Treatment Decision Act" (Living Will Law) to allow an individual to direct in his "living will" that nourishment provided through medical procedure or intervention be withdrawn after a period of thirty or more days, if nourishment is the only life-sustaining procedure being used.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 15-18-103 (7), Colorado Revised Statutes,  
5 1987 Repl. Vol., is amended to read:

6 15-18-103. Definitions. (7) "Life-sustaining procedure"  
7 means any medical procedure or intervention that, if  
8 administered to a qualified patient, would serve only to  
9 prolong the dying process. "Life-sustaining procedure" shall  
10 not include any medical procedure or intervention ~~to--nourish~~  
11 ~~the-qualified-patient-or~~ considered necessary by the attending



1 physician to provide comfort or alleviate pain.

2 SECTION 2. 15-18-104 (3), Colorado Revised Statutes,  
3 1987 Repl. Vol., is amended, and said 15-18-104 is further  
4 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

5 15-18-104. Declaration as to medical treatment.

6 (2.5) In the case of a qualified patient for whom the only  
7 life-sustaining procedure is nourishment, such life-sustaining  
8 procedure may be withdrawn after a period of thirty or more  
9 days.

10 (3) A declaration executed before two witnesses by any  
11 competent adult shall be legally effective for the purposes of  
12 this article and may, but need not be, in the following form:

13 DECLARATION AS TO MEDICAL OR SURGICAL TREATMENT

14 I, (name of declarant), being of sound mind and at  
15 least eighteen years of age, direct that my life shall not be  
16 artificially prolonged under the circumstances set forth below  
17 and hereby declare that:

18 1. If at any time my attending physician and one other  
19 physician certify in writing that:

20 a. I have an injury, disease, or illness which is not  
21 curable or reversible and which, in their judgment, is a  
22 terminal condition; and

23 b. For a period of forty-eight consecutive hours or  
24 more, I have been unconscious, comatose, or otherwise  
25 incompetent so as to be unable to make or communicate  
26 responsible decisions concerning my person; OR FOR A PERIOD OF

1 THIRTY OR MORE DAYS I HAVE BEEN IN SUCH CONDITION AND THE ONLY  
2 LIFE-SUSTAINING PROCEDURE BEING USED IS NOURISHMENT; then

3 I direct that life-sustaining procedures shall be  
4 withdrawn and withheld, it being understood that  
5 life-sustaining procedures shall not include any medical  
6 procedure or intervention ~~for--nourishment--or~~ considered  
7 necessary by the attending physician to provide comfort or  
8 alleviate pain.

9 2. I execute this declaration, as my free and voluntary  
10 act, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

11 By \_\_\_\_\_  
12 Declarant

13 The foregoing instrument was signed and declared by  
14 \_\_\_\_\_ to be his declaration, in the presence of  
15 us, who, in his presence, in the presence of each other, and  
16 at his request, have signed our names below as witnesses, and  
17 we declare that, at the time of the execution of this  
18 instrument, the declarant, according to our best knowledge and  
19 belief, was of sound mind and under no constraint or undue  
20 influence.

21 Dated at \_\_\_\_\_, Colorado, this \_\_\_\_\_ day of  
22 \_\_\_\_\_, 19\_\_\_\_.

23 \_\_\_\_\_  
24 Name and Address

25 \_\_\_\_\_  
26 Name and Address

27 STATE OF COLORADO )  
28 ) ss.

1 County of \_\_\_\_\_)

2 SUBSCRIBED and sworn to before me by \_\_\_\_\_,  
3 the declarant, and \_\_\_\_\_, and \_\_\_\_\_,  
4 witnesses, as the voluntary act and deed of the declarant,  
5 this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

6 My commission expires:

7 \_\_\_\_\_  
8 Notary Public

9 SECTION 3. 15-18-107, Colorado Revised Statutes, 1987  
10 Repl. Vol., is amended to read:

11 15-18-107. Withdrawal - withholding of life-sustaining  
12 procedures. In the event that an attending physician is  
13 presented with an unrevoked declaration executed by a  
14 declarant whom the physician believes has a terminal  
15 condition, the attending physician shall cause the declarant  
16 to be examined by one other physician. If both physicians  
17 find that the declarant has a terminal condition, they shall  
18 certify such fact in writing and enter such in the qualified  
19 patient's medical record of the hospital in which the  
20 withholding or withdrawal of life-sustaining procedures may  
21 occur, together with a copy of the declaration. If the  
22 attending physician has actual knowledge of the whereabouts of  
23 the qualified patient's spouse, any of his adult children, a  
24 parent, or attorney-in-fact under a durable power of attorney,  
25 the attending physician shall immediately make a reasonable

1 effort to notify at least one of said persons, in the order  
2 named, that a certificate of terminal condition has been  
3 signed. If no action to challenge the validity of a  
4 declaration has been filed within forty-eight consecutive  
5 hours after the certification is made by the physicians, OR  
6 WITHIN THIRTY DAYS AFTER CERTIFICATION IF THE ONLY  
7 LIFE-SUSTAINING PROCEDURE BEING USED IS NOURISHMENT, the  
8 attending physician shall then withdraw or withhold all  
9 life-sustaining procedures pursuant to the terms of the  
10 declaration.

11 SECTION 4. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary  
13 for the immediate preservation of the public peace, health,  
14 and safety.

Bill 17

Interim Committee on  
Long-term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING THE STATUTES OF LIMITATIONS FOR THE COMMENCEMENT OF  
2 CIVIL ACTIONS IN COLORADO, AND IN CONNECTION THEREWITH  
3 REINSTATING THE STATUTE OF REPOSE FOR ACTIONS INVOLVING  
4 HEALTH CARE AND AMENDING THE DEFINITION OF PERSONS UNDER  
5 A DISABILITY AND THE PROVISIONS RELATING TO THE ACCRUAL  
6 OF CERTAIN CAUSES OF ACTION.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Reinstates former provisions of the statutes of limitations which were omitted in the omnibus statute of limitations revision bill of the 1986 session. Such provisions include: 1) Reinstating the statute of repose, and the exceptions (knowing concealment and leaving an unauthorized foreign object in the patient's body) and the special provisions for minors thereto, for actions against physicians, hospitals, and other health care providers; and 2) Recognizing a natural guardian (parent) to the same extent as a legal guardian for purposes of defining a "person under disability".

Specifies that a cause of action accrues for injury to person, property, reputation, possession, relationship, or status on the date the injury is discovered or should have been discovered rather than on the date both the injury and its cause are known or should have been known.

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1 Be it enacted by the General Assembly of the State of Colorado:

2 SECTION 1. 13-80-102 (1) (c), Colorado Revised Statutes,  
3 1987 Repl. Vol., is amended to read:

4 13-80-102. General limitation of actions - two years -  
5 special limitations for actions against health care providers.

6 (1) (c) (I) All actions, regardless of the theory asserted,  
7 against any hospital, health care facility, clinic, physician,  
8 nurse, dentist, chiropractor, veterinarian, practitioner,  
9 therapist, technician, midwife, pharmacist, optometrist,  
10 podiatrist, paraprofessional, or other person involved in any  
11 of the healing arts; EXCEPT THAT IN NO EVENT MAY SUCH ACTION  
12 BE INSTITUTED MORE THAN THREE YEARS AFTER THE ACT OR OMISSION  
13 WHICH GAVE RISE THERETO, SUBJECT TO THE FOLLOWING EXCEPTIONS:

14 (A) IF THE ACT OR OMISSION WHICH GAVE RISE TO THE CAUSE  
15 OF ACTION WAS KNOWINGLY CONCEALED BY THE PERSON COMMITTING  
16 SUCH ACT OR OMISSION OR IF SUCH ACT OR OMISSION CONSISTED OF  
17 LEAVING AN UNAUTHORIZED FOREIGN OBJECT IN THE BODY OF THE  
18 PATIENT, THEN SUCH ACTION MAY BE INSTITUTED WITHIN TWO YEARS  
19 AFTER THE PERSON BRINGING THE ACTION DISCOVERED, OR IN THE  
20 EXERCISE OF REASONABLE DILIGENCE AND CONCERN SHOULD HAVE  
21 DISCOVERED, THE ACT OR OMISSION;

22 (B) IF THE ACTION IS BROUGHT BY OR ON BEHALF OF A MINOR  
23 WHO WAS UNDER SIX YEARS OF AGE ON THE DATE OF THE OCCURRENCE  
24 OF THE ACT OR OMISSION FOR WHICH SUCH ACTION IS BROUGHT, THEN  
25 SUCH ACTION MAY BE INSTITUTED WITHIN TWO YEARS AFTER SAID  
26 MINOR REACHES SIX YEARS OF AGE.

1           (II) THE LIMITATIONS PERIOD PROVIDED FOR IN SUBPARAGRAPH  
2       (I) OF THIS PARAGRAPH (c) SHALL NOT RUN DURING ANY PERIOD WHEN  
3       THE SAID MINOR IS UNDER THE AGE OF EIGHTEEN YEARS AND HAS NO  
4       NATURAL OR LEGAL GUARDIAN. IF THERE IS NO NATURAL OR LEGAL  
5       GUARDIAN, SUCH ACTION MAY BE INSTITUTED BY OR ON BEHALF OF  
6       SAID MINOR WITHIN TWO YEARS AFTER A LEGAL GUARDIAN IS  
7       APPOINTED BY A COURT OF RECORD OR WITHIN TWO YEARS AFTER THE  
8       PERSON UNDER DISABILITY REACHES EIGHTEEN YEARS OF AGE,  
9       WHICHEVER OCCURS FIRST. IF THERE IS NO NATURAL OR LEGAL  
10      GUARDIAN, THE LIMITATIONS PERIOD SHALL NOT RUN UNLESS A  
11      GUARDIAN AD LITEM IS APPOINTED TO REPRESENT THE MINOR CHILD.

12           (III) FOR PURPOSES OF THIS PARAGRAPH (c) ONLY, "PERSON  
13      UNDER DISABILITY" MEANS A MINOR UNDER SIX YEARS OF AGE, A  
14      PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO DOES NOT HAVE A  
15      NATURAL OR LEGAL GUARDIAN, A MENTAL INCOMPETENT, OR A PERSON  
16      UNDER ANY OTHER LEGAL DISABILITY.

17           SECTION 2. 13-80-108 (1), Colorado Revised Statutes,  
18      1987 Repl. Vol., is amended to read:

19           13-80-108. When a cause of action accrues.

20      (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS  
21      SUBSECTION (1), a cause of action for injury to person,  
22      property, reputation, possession, relationship, or status  
23      shall be considered to accrue on the date both the injury and  
24      its--cause THE FACT THAT IT WAS NEGLIGENTLY CAUSED BY THE ACTS  
25      OF ANOTHER are known or should have been known by the exercise  
26      of reasonable diligence.

27           (b) A CAUSE OF ACTION FOR INJURY TO PERSON BROUGHT UNDER

1 SECTION 13-80-102 (1) (c) SHALL BE CONSIDERED TO ACCRUE ON THE  
2 DATE THE INJURY IS DISCOVERED OR SHOULD HAVE BEEN DISCOVERED  
3 BY THE EXERCISE OF REASONABLE DILIGENCE AND CONCERN.

4 SECTION 3. 13-81-101 (3), Colorado Revised Statutes,  
5 1987 Repl. Vol., is amended to read:

6 13-81-101. Definitions. (3) EXCEPT AS PROVIDED IN  
7 SECTION 13-80-102 (1) (c), "person under disability" means any  
8 person who is a minor under eighteen years of age, a mental  
9 incompetent, or a person under other legal disability and who  
10 does not have a NATURAL OR legal guardian.

11 SECTION 4. Effective date - applicability. This act  
12 shall take effect July 1, 1988, and shall apply to acts or  
13 omissions occurring on or after said date.

14 SECTION 5. Safety clause. The general assembly hereby  
15 finds, determines, and declares that this act is necessary  
16 for the immediate preservation of the public peace, health,  
17 and safety.



Bill 18

Interim Committee on Long-term Health Care Needs

A BILL FOR AN ACT

1 CONCERNING PERIODIC PAYMENTS OF TORT JUDGMENTS IN CIVIL  
2 ACTIONS AGAINST HEALTH CARE PROVIDERS AND HEALTH CARE  
3 INSTITUTIONS.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the trial judge to enter a judgment ordering that future damages in civil actions brought against any health care provider or health care institution be paid by periodic payments rather than a lump sum payment for awards exceeding a specific amount. Requires the trier of fact to make specific findings relating to the periodic payments and the amount of damages. Specifies the procedures for determining the judgment to be entered. States that money damages awarded for loss of future earnings shall not be reduced or terminated by the death of the judgment creditor.

Requires the court to approve the method of funding of the periodic payment. Specifies the procedures if a person fails to fund the periodic payment. Clarifies when a right to receive periodic payment may be assigned. Exempts periodic payments for future damages from garnishment, attachment, and other similar claims. States that this act does not limit or affect settlement agreements or consent judgments. Allows the court to order a satisfaction of judgment and discharge of the judgment creditor under certain circumstances.

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4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Title 13, Colorado Revised Statutes, 1987

1 Repl. Vol., is amended BY THE ADDITION OF A NEW ARTICLE to  
2 read:

3 ARTICLE 64

4 Periodic Payments of Tort Judgments

5 13-64-101. Legislative declaration. (1) The general  
6 assembly declares the purposes of enacting this article are  
7 to:

8 (a) Alleviate the practical problems incident to the  
9 unpredictability of future losses;

10 (b) Effectuate more precise awards of damages for actual  
11 losses;

12 (c) Pay damages as the losses are found to accrue;

13 (d) Assure that payments of damages more nearly serve  
14 the purposes for which they are awarded;

15 (e) Reduce the burden on public assistance costs created  
16 by the dissipation of lump-sum payments; and

17 (f) Conform to the income tax policies in the United  
18 States internal revenue code and the laws of this state with  
19 respect to compensation for personal injuries.

20 13-64-102. Definitions. As used in this article, unless  
21 the context otherwise requires:

22 (1) "Economic loss" means pecuniary harm for which  
23 damages are recoverable under the laws of this state.

24 (2) "Future damages" means damages of any kind arising  
25 from personal injuries which the trier of fact finds will  
26 accrue after the damages findings are made.

27 (3) "Health care institution" means any licensed or

1 certified hospital, health care facility, dispensary, or other  
2 institution for the treatment or care of the sick or injured.

3 (4) "Health care professional" means any person licensed  
4 in this state or any other state to practice medicine,  
5 chiropractic, nursing, physical therapy, podiatry, dentistry,  
6 pharmacy, optometry, or other healing arts.

7 (5) "Noneconomic loss" means nonpecuniary harm for which  
8 damages are recoverable under the laws of this state, but the  
9 term does not include punitive or exemplary damages.

10 (6) "Past damages" means damages that have accrued when  
11 the damages findings are made, including any punitive or  
12 exemplary damages allowed by the laws of this state.

13 (7) "Qualified insurer" means an insurance company  
14 licensed to do business in this state, or any self-insurer,  
15 assignee, plan, or arrangement approved by the court.

16 13-64-103. Periodic payments. (1) (a) In any civil  
17 action for damages in tort brought against a health care  
18 professional or a health care institution, the trial judge  
19 shall enter a judgment ordering that awards for future damages  
20 be paid by periodic payments rather than by a lump-sum payment  
21 if the award equals or exceeds the present value of one  
22 hundred thousand dollars, as determined by the court.

23 (b) In any such action in which the award is less than  
24 one hundred thousand dollars, the trial judge may order that  
25 awards for future damages be paid by periodic payments.

26 13-64-104. Special damages findings required.

27 (1) (a) If liability is found in a trial under this article,

1 the trier of fact, in addition to other appropriate findings,  
2 shall make separate findings for each claimant specifying the  
3 amount of:

4 (I) Any past damages; and

5 (II) Any future damages and the duration over which they  
6 will accrue, on an annual basis, for each of the following  
7 types:

8 (A) Medical and other costs of health care, and other  
9 economic loss except loss of future earnings which would be  
10 incurred for the life of the claimant or any lesser period;

11 (B) Loss of future earnings which would be incurred for  
12 the work life expectancy of the claimant or a lesser period;  
13 and

14 (C) Noneconomic loss which would be incurred for the  
15 life of the claimant or any lesser period.

16 (2) The calculation of all future damages under  
17 sub-subparagraphs (A) and (C) of subparagraph (II) of  
18 subsection (1) of this section shall reflect the costs and  
19 losses during the period of time, including life expectancy,  
20 if appropriate, that the claimant will sustain those costs and  
21 losses. The calculation of loss under sub-subparagraph (B) of  
22 subparagraph (II) of subsection (1) of this section shall be  
23 based on loss during the period of time the claimant would  
24 have earned income but for the injury upon which the claim is  
25 based.

26 13-64-105. Determination of judgment to be entered.

27 (1) In order to determine what judgment is to be entered on a

1 verdict requiring findings of special damages under this  
2 article, the court shall proceed as follows:

3 (a) The court shall apply to the findings of past and  
4 future damages any applicable rules of law, including setoffs,  
5 credits, comparative fault, additurs, and remittiturs in  
6 calculating the respective amounts of past and future damages  
7 each claimant is entitled to recover and each party is  
8 obligated to pay. The court shall preserve the rights of any  
9 subrogee to be paid in a lump sum.

10 (b) The judgment shall specify the payment of attorney  
11 fees and litigation expenses in a manner separate from the  
12 periodic installments payable to the claimant, either in a  
13 lump sum or by periodic installments, pursuant to any  
14 agreement entered into between the claimant or beneficiary and  
15 his attorney, computed in accordance with the applicable  
16 principles of law.

17 (c) The court shall enter judgment in a lump sum for  
18 past damages and for any damages payable in lump sum or  
19 otherwise under paragraphs (a) and (b) of this subsection (1).

20 (d) The court, after hearing relevant expert testimony,  
21 if appropriate, shall enter judgment for the periodic payment  
22 of future damages.

23 (e) Upon petition of a party before entry of judgment  
24 and a finding of incapacity to pay the periodic payments, the  
25 court, at the election of the claimant or at the election of  
26 the beneficiaries in an action for wrongful death, shall enter  
27 a judgment for the present value of the periodic payments.

1           13-64-106. Periodic installment obligations. (1) A  
2 judgment for periodic payments under this article shall  
3 provide that:

4           (a) Such periodic payments are fixed and determinable as  
5 to amount and time of payment;

6           (b) Such periodic payments cannot be accelerated,  
7 deferred, increased, or decreased by the recipient of such  
8 payments; and

9           (c) The recipient of such payments shall be a general  
10 creditor of the qualified insurer.

11           (2) Unless the court directs otherwise and the parties  
12 otherwise agree, payments shall be scheduled at one-month  
13 intervals. Payments for damages accruing during the scheduled  
14 intervals are due at the beginning of the intervals. The  
15 court may direct that periodic payments shall continue for an  
16 initial term of years notwithstanding the death of the  
17 judgment creditor during that term.

18           (3) Money damages awarded for loss of future earnings  
19 shall not be reduced or payments terminated by reason of the  
20 death of the judgment creditor.

21           13-64-107. Form of funding. (1) A judgment for  
22 periodic payments entered in accordance with this article  
23 shall provide for payments to be funded in one or more of the  
24 following forms approved by the court:

25           (a) Annuity contract issued by a company licensed to do  
26 business as an insurance company under the laws of this state;

27           (b) An obligation or obligations of the United States;

1           (c) Evidence of applicable and collectible liability  
2 insurance from one or more qualified insurers;

3           (d) An agreement by one or more personal injury  
4 liability assignees to assume the obligation of the judgment  
5 debtor; or

6           (e) Any other satisfactory form of funding.

7           13-64-108. Funding the obligation. (1) If the court  
8 enters a judgment for periodic payments under this article,  
9 then each party liable for all or a portion of the judgment,  
10 unless found to be incapable of doing so, shall separately or  
11 jointly with one or more others provide the funding for the  
12 periodic payments in a form prescribed in section 13-64-107,  
13 within sixty days after the date the judgment is entered. A  
14 liability insurer having a contractual obligation and any  
15 other person adjudged to have an obligation to pay all or part  
16 of a judgment for periodic payments on behalf of a judgment  
17 debtor is obligated to provide such funding to the extent of  
18 its contractual or adjudged obligation if the judgment debtor  
19 has not done so.

20           (2) A judgment creditor or successor in interest and any  
21 party having rights under subsection (4) of this section may  
22 move that the court find that funding has not been provided  
23 with regard to a judgment obligation owing to the moving  
24 party. Upon so finding, the court shall order that funding  
25 complying with this article be provided within thirty days.  
26 If funding is not provided within that time and subsection (3)  
27 of this section does not apply, then the court shall calculate

1 the lump-sum equivalent of the periodic payment obligation and  
2 enter a judgment for that amount in favor of the moving party.

3 (3) If a judgment debtor who is the only person liable  
4 for a portion of a judgment for periodic payments fails to  
5 provide funding, then the right to lump-sum payment described  
6 in subsection (2) of this section applies only against that  
7 judgment debtor and the portion of the judgment so owed.

8 (4) If more than one party is liable for all or a  
9 portion of a judgment requiring funding under this article and  
10 the required funding is provided by one or more but fewer than  
11 all of the parties liable, the funding requirements are  
12 satisfied and those providing funding may proceed under  
13 subsection (2) of this section to enforce rights for funding  
14 or lump-sum payment to satisfy or protect rights of  
15 reimbursement from a party not providing funding.

16 13-64-109. Assignment of periodic payments. (1) An  
17 assignment by a judgment creditor or an agreement by such  
18 person to assign any right to receive periodic payments for  
19 future damages contained in a judgment entered under this  
20 article is enforceable only as to amounts:

21 (a) To secure payment of alimony, maintenance, or child  
22 support;

23 (b) For the costs of products, services, or  
24 accommodations provided or to be provided by the assignee for  
25 medical or other health care; or

26 (c) For attorney fees and other expenses of litigation  
27 incurred in securing the judgment.



1           13-64-110. Exemption of benefits. Except as provided in  
2 section 13-64-109, periodic payments for future damages  
3 contained in a judgment entered under this article for loss of  
4 earnings are exempt from garnishment, attachment, execution,  
5 and any other process or claim to the extent that wages or  
6 earnings are exempt.

7           13-64-111. Settlement agreements and consent judgments.  
8 Nothing in this article is to be construed to limit or affect  
9 the settlement of actions triable under this article. Parties  
10 to an action on a claim for personal injury may, but are not  
11 required to, file with the clerk of the court in which the  
12 action is pending or, if none is pending, with the clerk of a  
13 court of competent jurisdiction over the claim, a settlement  
14 agreement for future damages payable in periodic payments.  
15 The settlement agreement may provide that one or more sections  
16 of this article apply to it.

17           13-64-112. Satisfaction of judgment. Upon entry of an  
18 order by the court that the form of funding complies with  
19 section 13-64-107 and that the funding of the obligation  
20 complies with section 13-64-108, the court shall order a  
21 satisfaction of judgment and discharge of the judgment debtor.

22           SECTION 2. Effective date. This act shall take effect  
23 July 1, 1988.

24           SECTION 3. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary  
26 for the immediate preservation of the public peace, health,  
27 and safety.

Bill 19

Interim Committee on Long-term Health Care Needs.

A BILL FOR AN ACT

1 CONCERNING PROTECTIONS FOR QUALITY MANAGEMENT FUNCTIONS OF  
2 HEALTH CARE FACILITIES.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Declares that quality management systems to improve patient and resident care are essential to the operation of licensed health care facilities. Provides confidentiality for quality management information and qualified immunity for persons providing reports or participating in quality management functions.

Provides an exception from the confidentiality provisions for a regulatory agency which is authorized by law to make inspections or investigations.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Article 43.5 of title 12, Colorado Revised  
5 Statutes, 1985 Repl. Vol., as amended, is amended BY THE  
6 ADDITION OF A NEW SECTION to read:

7 12-43.5-104. Quality management functions -  
8 confidentiality and immunity. (1) The general assembly  
9 hereby finds and declares that the implementation of quality

1 management functions to evaluate and improve patient and  
2 resident care is essential to the operation of health care  
3 facilities licensed or certified by the department of health  
4 pursuant to section 25-1-107 (1) (1), C.R.S. For this  
5 purpose, it is necessary that the collection of information  
6 and data be unfettered so a complete and thorough evaluation  
7 and improvement of the quality of patient and resident care  
8 can be accomplished. To this end, quality management  
9 information relating to the evaluation or improvement of the  
10 quality of health care services shall be confidential and  
11 persons performing such functions shall be granted qualified  
12 immunity.

13 (2) For purposes of this section, a "quality management  
14 program" means a program which includes quality assurance and  
15 risk management activities, the peer review of licensed health  
16 care professionals, and other quality management functions  
17 which are described and filed with the department of health.

18 (3) Any records, reports, or other information of a  
19 licensed or certified health care facility which are part of a  
20 quality management program designed to identify, evaluate, and  
21 reduce the risk of patient or resident injury associated with  
22 care or to improve the quality of patient care shall be  
23 confidential information; except that such information shall  
24 be subject to any right of inspection or investigation by the  
25 department of health or other appropriate regulatory agency as  
26 otherwise provided by law.

27 (4) The records, reports, and other information

1 described in subsection (3) of this section shall not be  
2 subject to subpoena or discoverable or admissible as evidence  
3 in any civil or administrative proceeding. No person who  
4 participates in the reporting, collection, evaluation, or use  
5 of such quality management information, including any employee  
6 of a regulatory agency, shall be permitted or required to  
7 testify thereon in any civil or administrative proceeding.  
8 However, this subsection (4) shall not apply to:

9 (a) Any civil or administrative proceeding, inspection,  
10 or investigation by the department of health or other  
11 appropriate regulatory agency having jurisdiction for  
12 disciplinary or licensing sanctions;

13 (b) Persons giving testimony concerning facts of which  
14 they have personal knowledge acquired independently of the  
15 quality management information or the evaluation of such  
16 information;

17 (c) The availability, as provided by law or the rules of  
18 civil procedure, of information relating solely to the  
19 individual in interest in a civil suit by such person.

20 (5) Any person who participates in the reporting,  
21 collection, evaluation, or use of quality management  
22 information or performs other functions as part of a quality  
23 management program shall be immune from suit in any civil  
24 action based on such functions brought by a health care  
25 provider or individual who is the subject of quality  
26 management information if such person participates in good  
27 faith and within the scope of the functions of such quality

1 management program.

2 (6) Nothing in this section shall be construed to limit  
3 any statutory or common law privilege, confidentiality, or  
4 immunity.

5 SECTION 2. 24-72-204 (3) (a), Colorado Revised Statutes,  
6 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
7 NEW SUBPARAGRAPH to read:

8 24-72-204. Allowance or denial of inspection - grounds -  
9 procedure - appeal. (3) (a) (IX) (A) Any quality management  
10 records, reports, or other information described in section  
11 12-43.5-104, C.R.S., of a health care facility licensed or  
12 certified by the department of health. Nothing in this  
13 subparagraph (IX) shall limit the department of health or  
14 another agency from: Disclosing that it has obtained a report  
15 concerning quality management information or that an  
16 investigation is pending; disclosing information to a  
17 regulatory agency having jurisdiction to investigate the  
18 information, however, such information disclosed to a  
19 regulatory agency shall remain confidential; or releasing a  
20 summary report of an agency's findings after an investigation  
21 is completed or the agency determines no investigation is  
22 warranted. A licensing agency may also release a summary  
23 report, notwithstanding a pending investigation, if it  
24 determines that such release is necessary for the immediate  
25 protection of the public health and safety.

26 (B) Only a licensing agency may issue a summary report.  
27 Prior to releasing a summary report which contains information

1 identifying a health care facility or licensed health care  
2 professional, the licensing agency shall notify the health  
3 care facility and professional, and the facility or  
4 professional shall be allowed a reasonable time to comment.  
5 If immediate release of information is necessary and prior  
6 oral notification cannot be given, notification shall be given  
7 as soon as reasonably possible and shall state why prior  
8 notice could not be given.

9 SECTION 3. Safety clause. The general assembly hereby  
10 finds, determines, and declares that this act is necessary  
11 for the immediate preservation of the public peace, health,  
12 and safety.